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CANAL ZONE CODE

AN ACT OF THE CONGRESS OF THE UNITED STATES OF AMERICA TO ESTABLISH A CODE OF LAWS FOR THE CANAL ZONE, APPROVED JUNE 19, 1934

TOGETHER WITH

AN APPENDIX CONTAINING CERTAIN TREATIES AND GENERAL LAWS OF THE UNITED STATES APPLICABLE IN OR RELATING TO THE CANAL ZONE OR THE PANAMA CANAL

UNITED STATES
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PREFACE

This Code of Laws for the Canal Zone embraces all the laws relating to or applying in the Canal Zone, except such general laws of the United States as relate to or apply in the Canal Zone.

The preparation of the code was authorized by the act of Congress approved May 17, 1928 (45 Stat. 596), which authorized the President to have all the laws in force in the Canal Zone revised and codified, and to report the same to Congress for its approval. Under authority of that act, the President placed the work of revision and codification under the supervision of the Governor of the Panama Canal, and ordered the appointment of Paul A. Bentz as codifier. Mr. Bentz remained in active charge of the codification until its completion.

The material included in the code has its source in acts of Congress, in certain acts and ordinances of the former Isthmian Canal Commission which were ratified and confirmed as valid and binding by Congress in the Panama Canal Act of 1912, and, in a limited number of sections, in Executive orders of the President which were likewise ratified and confirmed by Congress.

The code embodies the existing laws without substantive change except in the cases of 29 sections wherein alteration was found to be desirable in the interests of uniformity and effectiveness. Twenty of the changes consist in the elimination of minimum punishments from the following sections of Title 5, The Criminal Code: Sections 92, 93, 103, 131, 175, 206, 293, 363, 644, 654, 737, 753, 789, 803, 823, 828, 830, 836, 839, and 843. The other sections embodying substantive change are as follows: Title 2, sections 33, 158, and 159; title 4, section 1706; and title 5, sections 257, 281, 401, 603, and 787.

Citations or "credits" are employed following the text of such sections only as were enacted or amended by Congress prior to the enactment of this code. In the cases of Title 3, The Civil Code, and Title 4, The Code of Civil Procedure, citations have been restricted to the first section in order to avoid unnecessary repetition.

The appendix is designed to afford a convenient means of reference to certain treaties and general laws of the United States applicable in or relating to the Canal Zone or the Panama Canal. An attempt has been made to represent all general laws which are applicable, setting forth the text of the law in the cases wherein that course is warranted by the extent of the practical application of the law and in all other cases inserting an appropriate reference to the law under a proper heading.

It is sought in the parallel reference tables to facilitate reference to the former law by showing the origin thereof, whether in act of Congress, Executive order, or act or ordinance of the Isthmian Canal Commission, and, in addition, in the cases of titles 3 to 6, to show the sources of the sections in the California law in order to render more accessible the decisions of the California courts construing those sections.

June 19, 1934
[H.R. 8700]

[Public No. 431]

Chapter 667

THE CANAL ZONE CODE

SEVENTY-THIRD CONGRESS, UNITED STATES OF AMERICA

AN ACT

To establish a Code of Laws for the Canal Zone and for other purposes

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the seven titles hereinafter set forth shall constitute the Code of Laws for the Canal Zone and shall, for all purposes, establish conclusively, and be deemed to embrace, all the permanent laws relating to or applying in the Canal Zone in force on the date of enactment of this Act, except such general laws of the United States as relate to or apply in the Canal Zone. Such code shall be designated as the " Canal Zone Code " and shall take effect on the expiration of ninety days after the date of enactment of this Act. Copies of such code printed at the Government Printing Office and bearing its imprint shall be conclusive evidence of the original of such code.

Sec. 2. The said Canal Zone Code shall not be published in the Session Laws or Statutes at Large, and there shall be printed and bound, as may be directed by the Joint Committee on Printing, such number of copies thereof as may be required for official use and distribution, including an index and any other explanatory matter the committee may deem necessary.

CANAL ZONE CODE

TITLE 1.—PERSONAL AND CIVIL RIGHTS

Section 1. Personal and civil rights and guarantees.—There are certain great principles of government which have been made the basis of an existence as a nation which are deemed essential to the rule of law and the maintenance of order, and which shall have force in the Canal Zone. The principles referred to may be generally stated as follows:

a. That no person shall be deprived of life, liberty or property without due process of law;

b. That private property shall not be taken for public use without just compensation;

c. That in all criminal prosecutions the accused shall enjoy the right:

(1) To a speedy and public trial;

(2) To be informed of the nature and cause of the accusation;

(3) To be confronted with the witnesses against him;

(4) To have compulsory process for obtaining witnesses in his favor; and

(5) To have the assistance of counsel for his defense;

d. That excessive bail shall not be required nor excessive fines imposed, nor cruel or unusual punishments inflicted;

e. That no person shall be put twice in jeopardy for the same offense, or be compelled in any criminal case to be a witness against himself;

f. That the right to be secure against unreasonable searches and seizures shall not be violated;

g. That neither slavery nor involuntary servitude shall exist except as a punishment for crime;

h. That no bill of attainder or ex post facto law shall be passed;

i. That no law shall be passed abridging the freedom of speech or of the press, or of the rights of the people to peaceably assemble and petition the government for a redress of grievances; and

j. That no law shall be made respecting the establishment of religion or prohibiting the free exercise thereof.

CROSS-REFERENCES

Rights of defendant in criminal action, see also title 6, section 14.

Right to jury trial, see title 4, section 441; title 6, section 302; and title 7, section 33.

Modes of conviction of public offense, see title 6, section 15.

Prohibition of unnecessary restraint before conviction, see title 6, section 11.

Prohibition of second prosecution for same offense, see also title 6, sections 8 and 9.

No person compelled in criminal action to be witness against himself, see also title 6, sections 10 and 673.

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CHAPTER 1.—GENERAL PROVISIONS

Sec.
1. Short title of organic act; reservation of right to alter, amend or repeal.
2. Establishment of Canal Zone.
3. Acquisition of additional land; exchange of land.
4. Towns and subdivisions of Canal Zone.
5. Government and operation of Canal and government of Canal Zone.
6. Appointment, term and salary of Governor.
7. Control and jurisdiction of Governor over Canal Zone.
8. Army control in time of war or when war is imminent.
9. Regulations governing operation of Canal, pilotage and navigation.
10. Damages for injuries to vessels, cargo or passengers in passing through locks.
11. Canal closed to violators of anti-trust laws.
12. Regulation by Governor of anchorage and movement of vessels in time of national emergency.

Section 1. Short title of organic act; reservation of right to alter, amend or repeal.—The Act entitled "An Act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone," approved August 24, 1912 (ch. 390, 37 Stat. 560), shall be known and referred to as the Panama Canal Act, and the right is expressly reserved:

a. To alter, amend or repeal any or all of its provisions; and

b. To extend, modify or annul any rule or regulation made under its authority. (Aug. 24, 1912, ch. 390, sec. 14, 37 Stat. 569 [U.S. Code, title 48, sec. 1301].)

2. Establishment of Canal Zone.—The zone of land and land under water of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the canal constructed thereon, which zone begins in the Caribbean Sea three marine miles from mean low-water mark and extends to and across the Isthmus of Panama into the Pacific Ocean to the distance of three marine miles from mean low-water mark, excluding therefrom the cities of Panama and Colon and their adjacent harbors located within said zone, as excepted in the treaty with the Republic of Panama dated November 18, 1903, but including all islands within said described zone, and in addition thereto the group of islands in the Bay of Panama named Perico, Naos, Culebra and Flamenco, and any lands and waters outside of said limits above described which are necessary or convenient or from time to time may become necessary or convenient for the construction, maintenance, operation, sanitation or protection of the said canal or of any auxiliary canals, lakes or other works necessary or convenient for the construction, maintenance, operation, sanitation or protection of said canal, the use, occupancy or control whereof were granted to the United States by the treaty between the United States and the Republic of Panama, the ratifications of which were exchanged on February 26, 1904, shall be known and designated as the Canal Zone, and the canal constructed thereon shall be known and designated as the Panama Canal. (Aug. 24, 1912, ch. 390, sec. 1, 37 Stat. 560 [U.S. Code, title 48, sec. 1302].)

3. Acquisition of additional land; exchange of land.—The President is authorized, by treaty with the Republic of Panama:

a. To acquire any additional land or land under water not already granted, or which was excepted from the grant, that he may deem necessary for the operation, maintenance, sanitation or protection of the Panama Canal; and

b. To exchange any land or land under water not deemed necessary for such purposes, for other land or land under water which may be deemed necessary for such purposes;

Which additional land or land under water so acquired shall become part of the Canal Zone. (Aug. 24, 1912, ch. 390, sec. 1, 37 Stat. 560 [U.S. Code, title 48, sec. 1302].)

CROSS-REFERENCE

For convention between United States and Panama defining the boundary line of the Canal Zone, see appendix, p. 848.

4. Towns and subdivisions of Canal Zone.—The President is authorized to determine or cause to be determined what towns shall exist in the Canal Zone, and subdivide and from time to time resubdivide the Canal Zone into subdivisions, to be designated by name or number, so that there shall be situated one town in each subdivision, and the boundaries of each subdivision shall be clearly defined. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1341].)

CROSS-REFERENCES

Magistrate's court in each town, see title 7, section 1.
Revocable licenses for lots in town sites, see section 304 of this title.

5. Government and operation of Canal and government of Canal Zone.—The President is authorized to govern and operate the Panama Canal and govern the Canal Zone, or cause them to be governed and operated, through a Governor of the Panama Canal and such other persons as he may deem competent to discharge the various duties connected with the care, maintenance, sanitation, operation, government and protection of the Canal and Canal Zone. (Aug. 24, 1912, ch. 390, sec. 4, 37 Stat. 561 [U.S. Code, title 48, sec. 1305].)

CROSS-REFERENCE

Appointment of necessary persons, see section 81 of this title.

6. Appointment, term and salary of Governor.—The Governor of the Panama Canal shall be appointed by the President, by and with the advice and consent of the Senate, commissioned for a term of four years and until his successor is appointed and qualified. He shall receive a salary of $10,000 a year. (Aug. 24, 1912, ch. 390, sec. 4, 37 Stat. 561 [U.S. Code, title 48, sec. 1305].)

7. Control and jurisdiction of Governor over Canal Zone.—The Governor of the Panama Canal shall, in connection with the operation of the Canal:

a. Have official control and jurisdiction over the Canal Zone; and

b. Perform all duties in connection with the civil government of the Canal Zone, which is to be held, treated and governed as an adjunct of the Canal. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91 sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1307].)

8. Army control in time of war or when war is imminent.—In time of war in which the United States is engaged or when in the opinion of the President war is imminent, such officer of the Army as the President may designate shall, upon the order of the President, assume and have exclusive authority and jurisdiction over the operation of the Panama Canal and all its adjuncts, appendants and appurtenances, including the entire control and government of the Canal Zone. During a continuance of such condition the Governor of the Panama Canal shall be subject to the order and direction of such officer of the Army in all respects and particulars as to the operation of the Canal and all duties, matters and transactions affecting the Canal Zone. (Aug. 24, 1912, ch. 390, sec. 13, 37 Stat. 569 [U.S. Code, title 48, sec. 1306].)

9. Regulations governing operation of Canal, pilotage and navigation.—The President is authorized to make, and from time to time amend, regulations governing:

a. The operation of the Panama Canal;

b. The passage and control of vessels through the same or any part thereof, including the locks and approaches thereto;

c. Pilots and pilotage in the Canal or the approaches thereto through the adjacent waters; and

d. The navigation of the harbors and other waters of the Canal Zone, including the licensing of officers of vessels navigating such waters.

Any person violating any of the provisions of the rules and regulations established hereunder shall be punished by a fine of not more than $100, or by imprisonment in jail for not more than thirty days, or by both. (Aug. 24, 1912, ch. 390, sec. 5, 37 Stat. 562; July 5, 1932, ch. 425, 47 Stat. 578 [U.S. Code, title 48, sec. 1318].)

CROSS-REFERENCES

Inspection of vessels, see sections 151 to 160 of this title.
Injury to, or obstruction of, Canal or locks, see title 5, sections 255 and 821.

10. Damages for injuries to vessels, cargo or passengers in passing through locks.—The regulations authorized under the next preceding section shall provide for prompt adjustment by agreement and immediate payment of claims for damages which may arise from injury to vessels, cargo, or passengers from the passing of vessels through the locks under the control of those operating them under such rules and regulations. In case of disagreement action may be brought in the district court against the Governor of the Panama Canal. The hearing and disposition of such actions shall be expedited and the judgment shall be paid immediately out of any moneys appropriated or allotted for Canal operation. (Aug. 24, 1912, ch. 390, sec. 5, 37 Stat. 562 [U.S. Code, title 48, sec. 1319].)

CROSS-REFERENCE

Establishment and designation of district court, see title 7, section 21.

11. Canal closed to violators of anti-trust laws.—No vessel permitted to engage in the coastwise or foreign trade of the United States shall be permitted to enter or pass through the Panama Canal if such ship is owned, chartered, operated, or controlled by any person or company which is doing business in violation of the provisions of the anti-trust laws (U.S. Code, title 15, secs. 1 to 27), or of any other Act of Congress amending or supplementing the same. The question of fact may be determined by the judgment of any court of the United States of competent jurisdiction in any cause pending before it to which the owners or operators of such ship are parties. Suit may be brought by any shipper or by the Attorney General of the United States. (Aug. 24, 1912, ch. 390, sec. 11, 37 Stat. 567 [U.S. Code, title 15, sec. 31].)

12. Regulation by Governor of anchorage and movement of vessels in time of national emergency.—Within the territory and waters of the Canal Zone the Governor of the Panama Canal, with the approval of the President, shall exercise all the powers conferred by section 1 of the Act of June 15, 1917 (ch. 30, title II, 40 Stat. 220 [U.S. Code, title 50, sec. 191]), on the Secretary of the Treasury. (June 15, 1917, ch. 30, title II, sec. 1, 40 Stat. 220 [U.S. Code, title 50, sec. 191].)

CROSS-REFERENCES

Failure to observe regulations, see U.S. Code, title 50, section 192 (appendix, p. 1014).

Jurisdiction of district court and duties of district attorney in relation to offenses, see U.S. Code, title 50, section 39 (appendix, p. 1012).

CHAPTER 2.—ACCOUNTING FOR FUNDS

Sec.
31. Consolidation of functions in relation to the various funds.
32. Accounting by collecting officers of Panama Canal.
33. Examination of accounts by persons detailed from General Accounting Office.

Section 31. Consolidation of functions in relation to the various funds.—The consolidation of the functions of receiving, disbursing and accounting for the funds of the Canal Zone Government and the Panama Railroad operations on the Isthmus with the functions of receiving, disbursing and accounting for the funds appropriated for the Panama Canal is authorized in so far as may be practicable, but separate accounts shall be kept of the transactions under each fund. (Aug. 1, 1914, ch. 223, sec. 4, 38 Stat. 679 [U.S. Code, title 48, sec. 1327].)

32. Accounting by collecting officers of Panama Canal.—The collecting officers of the Panama Canal shall render their accounts in such detail, and shall transmit with their accounts to the General Accounting Office all such papers, records and copies relating to their transactions as collectors, as shall be prescribed in regulations approved by the President, and, in his judgment, not incompatible with the methods of accounting prescribed in the Budget and Accounting Act, 1921 (U.S. Code, title 31, ch. 1). (Aug. 1, 1914, ch. 223, sec. 5, 38 Stat. 679 [U.S. Code, title 48, sec. 1328].)

33. Examination of accounts by persons detailed from General Accounting Office.—In prescribing regulations under the provisions of the next preceding section, the President shall provide that in lieu of furnishing to the General Accounting Office individual detail collection vouchers, two competent persons from the General Accounting Office, designated by the Comptroller General, shall be sent at such time as may be designated by the Comptroller General, to the Canal Zone to examine the accounts and vouchers and verify the submitted schedules of collections, and report in duplicate to the General Accounting Office and the Auditor of the Panama Canal; and such persons shall make such other examination into the accounts of the Panama Canal as may be directed by the Comptroller General, and for all such purposes they shall have access to all records and papers pertaining thereto. Such persons shall be furnished transportation and traveling expenses out of such appropriations for the Panama Canal as may be designated by the Governor. (Mar. 3, 1915, ch. 75, sec. 3, 38 Stat. 886 [U.S. Code, title 48, sec. 1329].)

CHAPTER 3.—ADMINISTERING OATHS AND SUMMONING WITNESSES

Sec.
41. Authority of certain officers to administer oaths for certification of papers.
42. Authority to summon witnesses and require production of papers.
43. Process to compel attendance of witnesses and production of papers.

Section 41. Authority of certain officers to administer oaths for certification of papers.—Members of the board of local inspectors, customs officers, quarantine officers, and admeasurers, appointed by the Governor of the Panama Canal, may administer oaths for the purpose of certifying the correctness of official papers. (July 5, 1932, ch. 422, sec. 1, 47 Stat. 576.)

CROSS-REFERENCE

Administration of oaths by judicial and other officers, see title 4, section 2171.

42. Authority to summon witnesses and require production of papers.—The officers designated in the next preceding section may:

a. Summon witnesses to testify in matters within the jurisdiction of such officers; and

b. Require the production of books and papers necessary thereto. (July 5, 1932, ch. 422, sec. 2, 47 Stat. 577.)

43. Process to compel attendance of witnesses and production of papers.—The district court may:

a. Issue processes at the request of the designated Canal officers to compel the attendance of witnesses and the production of books and papers; and

b. Punish for contempt of court any person who refuses to obey such processes, or who refuses to be sworn or to answer any material or proper question after being duly sworn. (July 5, 1932, ch. 422, sec. 2, 47 Stat. 577 [U.S. Code, title 48, sec. 1345a].)

CHAPTER 4.—BUSINESS OPERATIONS

Sec.
51. Providing materials, supplies, and services for vessels.
52. Receipts from such business; appropriation for expenditure and reinvestment.

Section 51. Providing materials, supplies, and services for vessels.—The President is authorized to establish, maintain and operate, through the Panama Railroad Company or otherwise, dry docks, repair shops, yards, docks, wharves, warehouses, storehouses and other necessary facilities and appurtenances for the purpose of providing coal and other materials, labor, repairs and supplies for vessels of the Government of the United States and, incidentally, for supplying such at reasonable prices to passing vessels, in accordance with appropriations hereby authorized to be made from time to time by Congress as a part of the maintenance and operation of the Panama Canal. (Aug. 24, 1912, ch. 390, sec. 6, 37 Stat. 563 [U.S. Code, title 48, sec. 1323].)

52. Receipts from such business; appropriation for expenditure and reinvestment.—Moneys received from the conduct of the business referred to in the next preceding section, may be expended and reinvested for such purposes without being covered into the Treasury of the United States; and such moneys are hereby appropriated for such purposes, but all deposits of such funds shall be subject to the provisions of existing law relating to the deposit of other public funds of the United States, and any net profits accruing from such business shall annually be covered into the Treasury of the United States. Monthly reports of such receipts and expenditures shall be made to the President by the persons in charge, and annual reports shall be made to the Congress. (Aug. 24, 1912, ch. 390, sec. 6, 37 Stat. 563 [U.S. Code, title 48, sec. 1323].)

CHAPTER 5.—CUSTOMS SERVICE

Sec.
61. Control by Governor of importation of articles or merchandise; regulations.
62. Offenses in relation to entry or importation of articles or merchandise.
63. Seizure and confiscation of articles illegally imported or obtained.
64. Omission of merchandise from manifest; penalty and forfeiture.
65. Omission of sea stores from list; landing of sea stores; penalty and forfeiture.
66. Powers of officers performing duties in relation to customs.
67. Fees of customs officers.

Section 61. Control by Governor of importation of articles or merchandise; regulations.—The Governor of the Panama Canal shall:

a. Have control for customs purposes over all articles introduced into the Canal Zone including passengers' baggage; and

b. Have authority to establish, and to alter and amend from time to time, rules and regulations governing:

(1) The entry and importation of goods into the Canal Zone; and

(2) The disposition of goods brought into the Canal Zone in violation of such regulations. (Feb. 16, 1933, ch. 90, sec. 1, 47 Stat. 813 [U.S. Code, title 48, sec. 1325a].)

62. Offenses in relation to entry or importation of articles or merchandise.—Any person who shall:

a. Enter or import, or attempt to enter or import, any articles or merchandise into the Canal Zone before the entry or importation of such articles or merchandise has been approved by the proper officers of the Canal Zone;

b. Pass, or attempt to pass, any false, forged or fraudulent invoice, bill or other paper, for the purpose of securing the entry or importation of any articles or merchandise into the Canal Zone in violation of the rules and regulations established under the authority of the next preceding section; or

c. Violate any of the rules and regulations established under the authority of the next preceding section;

Shall be punished by a fine of not more than $100, or by imprisonment in jail for not more than ninety days, or by both. (Feb. 16, 1933, ch. 90, sec. 3, 47 Stat. 813 [U.S. Code, title 48, sec. 1325c].)

63. Seizure and confiscation of articles illegally imported or obtained.—Any article brought into or obtained in the Canal Zone in violation of the rules and regulations established under the authority of section 61 of this title may be seized and held, and, unless entered in conformity with such rules and regulations within a period of thirty days from the date of seizure, may be confiscated and disposed of as provided in such rules and regulations. (Feb. 16, 1933, ch. 90, sec. 3, 47 Stat. 813 [U.S. Code, title 48, sec. 1325c].)

64. Omission of merchandise from manifest; penalty and forfeiture.—If any vessel arriving at the Canal Zone from any port, other than a port in the Canal Zone or the Republic of Panama, is found to have on board merchandise not manifested, the master of such vessel shall be liable to a penalty equal in amount to the value of the merchandise not manifested, and all such merchandise belonging to or consigned to or for the officers or crew of the vessel shall be forfeited: *Provided*, *however*, That such penalty shall not be imposed if it is made to appear to the customs officers, or to the court in which the trial is held, that no part of the cargo has been unloaded except as accounted for in the master's report, and that the errors and omissions in the manifest were made without fraud or collusion; and in such case the master may be allowed to correct his manifest by means of a post entry. A permit shall not be granted to unload any such merchandise so omitted from the manifest before post entry or addition to report or manifest has been made. (Feb. 16, 1933, ch. 90, sec. 4, 47 Stat. 813 [U.S. Code, title 48, sec. 1325d].)

65. Omission of sea stores from list; landing of sea stores; penalty and forfeiture.—If sea stores are found on board a vessel from any port, other than a port in the Canal Zone or the Republic of

Panama, which are not specified in the list furnished the boarding officer, or if a greater quantity of such articles is found than that specified in such list, or if any of such articles are landed without a permit being first obtained from the customs officer for that purpose, all of such articles omitted from the list or manifest, or so landed, shall be seized and forfeited, and the master of the vessel shall be liable to a penalty treble the value of the articles so omitted or landed. (Feb. 16, 1933, ch. 90, sec. 5, 47 Stat. 814 [U.S. Code, title 48, sec. 1325e].)

66. Powers of officers performing duties in relation to customs.—Customs officers in the Canal Zone, including deputy shipping commissioners and boarding officers when performing duties in relation to customs, shall have general powers of search, seizure, and arrest. In the exercise of these powers such officers may:

a. Enter any building other than a dwelling house;

b. Stop vessels and vehicles;

c. Search vessels, vehicles, and their contents; and

d. Stop and search persons and any packages carried by them.

Such rights of entry, stopping, search, seizure, and arrest shall be exercised only when there are reasonable grounds for suspecting violations of the customs rules and regulations authorized under section 61 of this title or of the United States applicable in the Canal Zone. (Feb. 16, 1933, ch. 90, sec. 2, 47 Stat. 813 [U.S. Code, title 48, sec. 1325b].)

67. Fees of customs officers.—A customs officer of the Canal Zone may collect a fee, equivalent to the fee prescribed by the United States consular regulations for the same act or service when performed by consular officials, whenever he shall:

a. Certify an invoice, landing certificate, or other similar document;

b. Register a marine note of protest; or

c. Perform any notarial service. (Aug. 21, 1916, ch. 371, sec. 8, 39 Stat. 528 [U.S. Code, title 48, sec. 1326].)

CROSS-REFERENCE

Authority to certify invoices for merchandise shipped to United States from Canal Zone, see U.S. Code, title 19, section 1482 (appendix, p. 957).

CHAPTER 6.—EMPLOYEES

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ARTICLE 1.—APPOINTMENT AND COMPENSATION IN GENERAL

Sec.
81. Appointment, removal, and compensation of necessary persons.
82. Deduction from compensation of persons in military or naval service.
83. Deduction from compensation of amounts due for supplies or services.

Section 81. Appointment, removal, and compensation of necessary persons.—All persons, other than the Governor of the Panama

Canal, necessary for the care, management, maintenance, sanitation, government, operation, and protection of the Canal and Canal Zone shall:

a. Be appointed by the President or by his authority;

b. Be removable at the pleasure of the President; and

c. Receive such compensation as shall be fixed by the President or by his authority until such time as Congress may by law regulate the same, but salaries or compensation fixed by the President hereunder shall in no instance exceed by more than 25 per centum the salary or compensation paid for the same or similar services to persons employed by the Government in continental United States. (Aug. 24, 1912, ch. 390, sec. 4, 37 Stat. 561 [U.S. Code, title 48, sec. 1305].)

82. Deduction from compensation of persons in military or naval service.—If any of the persons appointed or employed as provided in sections 6 and 81 of this title are in the military or naval service of the United States, the amount of the official salary paid to any such person shall be deducted from the amount of salary or compensation provided by or which shall be fixed under the terms of those sections, but this section shall not be construed as requiring the deduction from the amount of such salary or compensation, of:

a. The retired pay or allowances of any retired warrant officer or enlisted man of the Army, Navy, Marine Corps, or Coast Guard; or

b. The training pay, retainer pay or allowances of any warrant officer or enlisted man of the reserve forces of the Army, Navy, Marine Corps, or Coast Guard. (Aug. 24, 1912, ch. 390, sec. 4, 37 Stat. 561 [U.S. Code, title 48, sec. 1305]; Mar. 12, 1928, ch. 213, 45 Stat. 310 [U.S. Code, title 48, sec. 1305a].

CROSS-REFERENCES

Double salaries, generally, see U.S. Code, title 5, sections 58 to 59a (appendix, p. 870).

Holding other lucrative office, see U.S. Code, title 5, section 62 (appendix, p. 871).

83. Deduction from compensation of amounts due for supplies or services.—All amounts due from employees, whether to the Panama Canal, Panama Railroad Company, or contractor, for transportation, board, supplies or any other service, are hereby authorized to be deducted from the compensation otherwise payable to such employees, and to be paid to the authorized parties or to be credited to the appropriation out of which the transportation, board, supplies, or other service was originally paid. (Mar. 4, 1907, ch. 2918, sec. 8, 34 Stat. 1371.)

CROSS-REFERENCE

Application of pay to indebtedness due United States on removal of employee for cause, see U.S. Code, title 5, section 46a (appendix, p. 870).

ARTICLE 2.—RETIREMENT OF CANAL AND RAILROAD EMPLOYEES ON ISTHMUS WHO ARE CITIZENS

Sec.
91. Employees to whom article applies.
92. Automatic retirement; optional retirement at 60 in certain cases.
93. Voluntary retirement.
94. Disability retirement; requirement of medical examination.
95. Involuntary separation from the service.
96. Method of computing annuities.
97. Computation of accredited service.
98. Credit for past service.
99. Deductions.
100. Investments and accounts.
101. Return of amounts deducted from salaries.
102. Payment of annuities.
103. Benefits extended to those already retired.
104. Board of actuaries.
105. Administration.
106. Moneys not assignable or subject to legal process.
107. Effective date.

91. Employees to whom article applies.—All employees of the Panama Canal on the Isthmus of Panama and all employees of the Panama Railroad Company on the Isthmus of Panama, who are citizens of the United States and whose tenure of employment is not intermittent nor of uncertain duration, shall come within the provisions of this article. (Mar. 2, 1931, ch. 375, sec. 1, 46 Stat. 1471 [U.S. Code, title 48, sec. 1371].)

92. Automatic retirement; optional retirement at 60 in certain cases.—All employees to whom this article applies shall, after reaching the age of sixty-two years and having rendered at least fifteen years of service on the Isthmus of Panama, be automatically separated from the service and retired on the annuity provided for herein; and all salary, pay, or compensation shall cease from that date.

On and after July 1, 1932, no employee to whom this article applies who shall have reached the retirement age prescribed for automatic separation from the service, shall be continued in such service, notwithstanding any provision of law or regulation to the contrary: *Provided*, That the President may, by Executive order, exempt from the provisions of this paragraph any person when, in his judgment, the public interest so requires: *Provided further*, That no such person heretofore or hereafter separated from the service under any provision of law or regulation providing for such retirement on account of age shall be eligible again to appointment to any appointive office, position, or employment to which this article applies: *Provided further*, That this paragraph shall not apply to any person named in any Act of Congress providing for the continuance of such person in the service.

All employees to whom this article applies who would be eligible for retirement from the service upon attaining the age of sixty-two years shall, after attaining the age of sixty years and having rendered at least thirty years' service, computed as provided in section 97 of this title, be eligible for retirement on an annuity as provided in section 96 of this title. Retirement under the provisions of this paragraph shall be at the option of the employee, but if such option is not exercised prior to the date upon which the employee would otherwise be eligible for retirement from the service, the provisions of this article with respect to automatic separation from the service shall apply. (Mar. 2, 1931, ch. 375, sec. 2, 46 Stat. 1471 [U.S. Code, title 48, sec. 1371a]; June 30, 1932, ch. 314, sec. 204, 47 Stat. 404 [U.S. Code, title 5, sec. 692b].)

93. Voluntary retirement.—(a) Any employee to whom this article applies who shall have attained the age of fifty-five and rendered at least twenty-five years of service, of which not less than fifteen years shall have been rendered on the Isthmus of Panama, may voluntarily retire on an annuity equivalent in value to the present worth of a deferred annuity beginning at the age at which the employee would otherwise have become eligible for retirement, computed as provided in section 96 of this title, the present worth of said deferred annuity to be determined on the basis of the American Experience Table of Mortality and an interest rate of 4 per centum, compounded annually.

(b) Any employee to whom this article applies may voluntarily retire on an annuity computed as provided in section 96, who shall have attained the age of fifty-five and rendered at least thirty years of service on the Isthmus of Panama (inclusive of absences while in the service of the United States during the World War), of which not less than three years shall have been in the employment of the Isthmian Canal Commission or the Panama Railroad Company between May 4, 1904, and April 1, 1914. (Mar. 2, 1931, ch. 375, sec. 3, 46 Stat. 1472 [U.S. Code, title 48, sec. 1371b].)

94. Disability retirement; requirement of medical examinations.—(a) Any employee to whom this article applies who shall have attained the age of fifty-five years and shall have rendered at least fifteen years of service on the Isthmus of Panama, and who shall have become physically or mentally disqualified to perform satisfactorily and efficiently the duties of his position or of any other position of approximately equal compensation to which he might be assigned, because of the strenuous or hazardous nature of such position, shall, upon the request or order of the Governor of the Panama Canal, be retired on an annuity computed in accordance with the provisions of section 96 of this title: *Provided*, That no such employee shall be so retired except after an examination and finding as to his mental or physical disqualifications as hereinafter provided.

(b) Any employee to whom this article applies who shall have served for a total period of not less than five years, and who, before becoming eligible for retirement under the conditions defined in section 92 of this title, shall have become totally disabled for useful and efficient service in the grade or class of position occupied by the employee, by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on the part of the employee, shall upon his own application or upon request or order of the Governor of the Panama Canal, be retired on an annuity computed in accordance with the provisions of section 96 of this title.

No claim shall be allowed under the provisions of this section unless the application for retirement shall have been executed prior to the applicant's separation from the service or within six months thereafter. No employee shall be retired under the provisions of this section unless he or she shall have been examined by a medical officer of the United States, or a duly qualified physician or surgeon or board of physicians or surgeons, designated by the Administrator of Veterans' Affairs for that purpose, and found to be disabled in the degree and in the manner specified herein.

Every annuitant retired under the provisions of this section, unless the disability for which he was retired be permanent in character, shall at the expiration of one year from the date of such retirement and annually thereafter, until reaching retirement age as defined in section 92 of this title, be examined under the direction of the Administrator of Veterans' Affairs by a medical officer of the United States, or a duly qualified physician or surgeon, or board of physicians or surgeons designated by the Administrator of Veterans' Affairs for that purpose, in order to determine the nature and degree of the annuitant's disability, if any. If an annuitant shall recover before reaching the age at which he would otherwise have become eligible for retirement and be restored to an earning capacity which would permit him to be appointed to some appropriate position fairly comparable in compensation to the position occupied at the time of retirement, payment of the annuity shall be continued temporarily to afford the annuitant opportunity to seek such available position, but not in any case exceeding ninety days from the date of the medical examination showing such recovery.

If the annuitant shall fail to obtain reemployment through no fault of his own within the ninety-day period in any position included in the provisions of this article, he shall be considered as involuntarily separated from the service as of the date he shall have been retired for disability, and if otherwise eligible, entitled to an annuity under section 95 of this title to begin at the close of said ninety-day period based on the service rendered prior to his retirement for disability.

The Administrator of Veterans' Affairs may order or direct at any time such medical or other examination as he shall deem necessary to determine the facts relative to the nature and degree of disability of any employee retired on an annuity under this section. Should an annuitant fail to appear for any examination required under this section, payment of the annuity shall be suspended until the requirement shall have been met.

In all cases where the annuity is discontinued under the provisions of this section before the annuitant has received a sum equal to the amount credited to his individual account as provided in paragraph (a) of section 101 of this title, together with interest at 4 per centum per annum compounded on June 30 of each year, the difference, unless he shall become reemployed in a position within the purview of this article, shall be paid to the retired employee, as provided in paragraph (b) of section 101 of this title, upon application therefor in such form and manner as the Administrator of Veterans' Affairs may direct. In case of reemployment in a position within the purview of this article the amount so refunded shall be redeposited as provided in paragraph (b) of section 101 of this title.

No person shall be entitled to receive an annuity under the provisions of this article, and compensation under the provisions of the Act of September 7, 1916 (ch. 458, 39 Stat. 742 [U.S. Code, title 5, ch. 15]), covering the same period of time; but this provision shall not be so construed as to bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period of time.

Fees for examinations made under the provisions of this section, by physicians or surgeons who are not medical officers of the United States, shall be fixed by the Administrator of Veterans' Affairs, and such fees, together with the employee's reasonable traveling and other expenses incurred in order to submit to such examinations, shall be paid out of the appropriations for the cost of administering this article. (Mar. 2, 1931, ch. 375, sec. 4, 46 Stat. 1472 [U.S. Code, title 48, sec. 1371c].)

NOTE.—A uniform retirement date for the authorized retirement of Federal personnel is fixed by the Act of April 23, 1930 (ch. 209, sec. 1, 46 Stat. 253 [U.S. Code, title 5, sec. 47a]), which reads as follows:

"Retirement authorized by law of Federal personnel of whatever class, civil, military, naval, judicial, legislative, or otherwise, and for whatever cause retired, shall take effect on the 1st day of the month following the month in which said retirement would otherwise be effective, and said 1st day of the month for retirements made after July 1, 1930, shall be for all purposes in lieu of such date for retirement as was on April 23, 1930, authorized; except that the rate of active or retired pay or allowance shall be computed as of the date retirement would have occurred if this section had not been enacted."

Section 2 of the act (46 Stat. 253) provided as follows: "This Act shall become effective July 1, 1930. All laws or parts of laws, insofar as in conflict herewith, are repealed."

95. Involuntary separation from the service.—Should any employee fifty-five years of age or over to whom this article applies, after having served for a total period of not less than fifteen years and before becoming eligible for retirement under the conditions defined in section 92 of this title, become involuntarily separated from the service, not by removal for cause on charges of misconduct or delinquency, such employee shall be paid as he may elect, either—

(a) The amount of the deductions from his basic salary, pay, or compensation, including accrued interest thereon computed as prescribed in paragraph (b) of section 101 of this title;

(b) An immediate life annuity beginning at the date of separation from the service, having a value equal to the present worth of a deferred annuity beginning at the age at which the employee would otherwise have become eligible for retirement, computed as provided in section 96 of this title, the present worth of said deferred annuity to be determined on the basis of the American Experience Table of Mortality and an interest rate of 4 per centum, compounded annually; or

(c) A deferred annuity beginning at the age at which the employee would otherwise become eligible for retirement computed as provided in section 96 of this title.

Any employee who has served for a period of not less than fifteen years, and who is forty-five years of age, or over, and less than fifty-five years, and who becomes separated from the service under the conditions set forth in this section shall be entitled to a deferred annuity, but such employee may, upon reaching the age of fifty-five years, elect to receive an immediate annuity as provided in paragraph (b) of this section.

Should an annuitant under the provisions of this section be reemployed in any position included in the provisions of this article, payment of annuity shall not be allowed covering the period of such reemployment, and an annuity based upon involuntary separation shall not be allowed upon subsequent separation from the service unless such subsequent separation shall be involuntary. (Mar. 2, 1931, ch. 375, sec. 5, 46 Stat. 1474 [U.S. Code, title 48, sec. 1371d].)

NOTE.—With respect to involuntary separation from the service between June 16, 1933, and July 1, 1935, by a person having at least 30 years' service, act of June 16, 1933 (ch. 101, sec. 8, par. (b), 48 Stat. 305 [U.S. Code, title 48, sec. 1371 bb]), provides as follows:

"Whenever at any time hereafter prior to July 1, 1935, any person to whom the Canal Zone Retirement Act, approved March 2, 1931 (Public, Numbered 781, Seventy-first Congress), applies, who has an aggregate period of service of at least thirty years computed as prescribed in section 7 of such Act (section 97 of this title), is involuntarily separated from the service for reasons other than his misconduct, such employee shall be entitled to an annuity computed as provided in section 6 of such Act (section 96 of this title) payable from the Canal Zone retirement and disability fund less a sum equal to 5 per centum of such annuity: Provided, That when an annuitant hereunder attains the age at which he would have been entitled to retirement with annuity computed as provided in section 6 of such Act (section 96 of this title), such deduction from the annuity shall cease. If and when any such annuitant shall be reemployed in the service of the District of Columbia or the United States (including any corporation the majority of the stock of which is owned by the United States), the right to the annuity provided by this section shall cease and the subsequent annuity rights of such person shall be determined in accordance with the applicable provisions of retirement law existing at the time of the subsequent separation of such person from the service."

96. Method of computing annuities.—The annuity of an employee retired under the provisions of this article shall be composed of—

(1) A sum equal to $37.50 multiplied by the number of years of service, not to exceed thirty years, rendered (a) on the Isthmus of Panama, or (b) in the military or naval service of the United States in the Tropics; and

(2) The annuity purchasable with the sum to the credit of the employee's individual account, including accrued interest thereon computed as prescribed in paragraph (a) of section 101 of this title, according to the experience of the Canal Zone retirement and disability fund as may from time to time be set forth in tables of annuity values by the board of actuaries; and

(3) Thirty dollars multiplied by the number of years of service rendered and not allowable under paragraph (1) hereof: *Provided*, That the number of years of service to be used in computing the allowance under paragraph (3) shall not exceed the difference between thirty and the number of allowable years of service under paragraph (1); and

(4) Thirty-six dollars multiplied by the number of years of service rendered on the Isthmus of Panama, either in the employ of the Isthmian Canal Commission or the Panama Railroad Company, between May 4, 1904, and April 1, 1914.

In no case, however, shall the total annuity paid exclusive of that provided in paragraph (4) hereof, be less than an amount equal to the sum of—

The average annual basic salary, pay, or compensation, not to exceed $2,000 per annum, received by the employee during any five consecutive years of allowable service at the option of the employee, multiplied by the number of years of service used in computing the annuity under paragraph (1) hereof, and divided by forty; and the average annual basic salary, pay, or compensation, not to exceed $1,600 per annum, received by the employee during any five consecutive years of allowable service at the option of the employee, multiplied by the number of years of service used in computing the annuity under paragraph (3) hereof, and divided by forty: *Provided*, That the annuity paid a retiring employee of the Panama Railroad Company in such service on June 30, 1931, shall be an amount equal to 2 per centum of the average annual basic salary, pay, or compensation, not to exceed $5,000 per annum, received by the employee during any five consecutive years of allowable service at the option of the employee, multiplied by the number of years of allowable service rendered prior to July 1, 1931; plus the amount to which the employee is entitled under the provisions of this section, exclusive of paragraph (4), for service rendered subsequent to June 30, 1931: *Provided, however*, That the sum to be used in computing the annuity purchasable under paragraph (2) of this section shall include only contributions made subsequent to June 30, 1931: *And provided further*, That the number of years of service to be used in computing the annuity under paragraph (1) and (3) of this section shall not exceed the difference between thirty and the number of years of allowable service rendered prior to July 1, 1931.

The annuity granted under paragraphs (1), (3), and (4) of this section shall not exceed three fourths of the average annual basic salary, pay, or compensation received by the employee during any five consecutive years of allowable service at the option of the employee.

Any employee at the time of his retirement may elect to receive, in lieu of the life annuity herein described, an increased annuity of equivalent value which shall carry with it a proviso that no unexpended part of the principal upon the annuitant's death shall be returned. For the purposes of this article all periods of service shall be computed in accordance with section 97 of this title, and the annuity shall be fixed at the nearest multiple of twelve.

The term "basic salary, pay, or compensation", wherever used in this article, shall be so construed as to exclude from the operation of the article all bonuses, allowances, overtime pay, or salary, pay, or compensation given in addition to the base pay of the position as fixed by law or regulation. (Mar. 2, 1931, ch. 375, sec. 6, 46 Stat. 1474 [U.S. Code, title 48, sec. 1371e].)

97. Computation of accredited service.—Subject to the provisions of section 98 of this title, the service which shall form the basis for calculating the amount of any benefit provided in this article shall be computed from the date of original employment, whether as a classified or an unclassified employee, in the civil service of the United States or under the municipal government of the District of Columbia, including periods of service at different times and in one or more departments, branches, or independent offices of the Government, and service on the Isthmus of Panama with the Isthmian Canal Commission, the Panama Canal, or the Panama Railroad Company; also periods of service performed overseas under authority of the United

States and periods of honorable service in the Army, Navy, Marine Corps, or Coast Guard of the United States. In the case of an employee, however, who is eligible for and elects to receive a pension under any law, or retired pay on account of military or naval service, or compensation under the War Risk Insurance Act, the period of his military or naval service upon which such pension, retired pay, or compensation is based shall not be included, but nothing in this article shall be so construed as to affect in any manner his right to a pension, or to retired pay, or to compensation under the War Risk Insurance Act in addition to the annuity herein provided.

In computing length of service for the purposes of this article all periods of separation from the service, and so much of any leaves of absence without pay as may exceed six months in the aggregate in any calendar year, shall be excluded.

In determining the total periods of service upon which the allowances are to be computed under section 96 of this title, the fractional part of a month, if any, shall be eliminated from each respective total period. (Mar. 2, 1931, ch. 375, sec. 7, 46 Stat. 1476 [U.S. Code, title 48, sec. 1371f].)

98. Credit for past service.—All employees coming within the provisions of this article after July 1, 1931, shall be required to deposit with the Treasurer of the United States to the credit of the Canal Zone retirement and disability fund referred to in section 99 of this title, under rules to be prescribed by the Administrator of Veterans' Affairs, a sum equal to 2½ per centum of the employee's basic salary, pay, or compensation received for services rendered after July 31, 1920, and prior to July 1, 1926, and also 3½ per centum of the basic salary, pay, or compensation for services rendered subsequent to June 30, 1926, together with interest computed at the rate of 4 per centum per annum compounded on the last day of each fiscal year, but such interest shall not be included for any period during which the employee was separated from the service. Upon making such deposit the employee shall be entitled to credit for the period or periods of service involved: *Provided*, That no such deposit shall be required on account of services rendered for the Panama Railroad Company prior to January 1, 1924: *Provided further*, That failure to make such deposit shall not deprive the employee of credit for any past service for which no deposit is required under the provisions of this section. (Mar. 2, 1931, ch. 375, sec. 8, 46 Stat. 1476 [U.S. Code, title 48, sec. 1371g].)

99. Deductions.—Beginning July 1, 1931, there shall be deducted and withheld from the basic salary, pay, or compensation of each employee to whom this article applies a sum equal to 5 per centum of such employee's basic salary, pay, or compensation. The amounts so deducted and withheld from the basic salary, pay, or compensation of each employee shall be deposited with the Treasurer of the United States to the credit of a special fund to be known as the Canal Zone retirement and disability fund, in accordance with the procedure now or hereafter prescribed for covering into the United States Treasury the deductions from salaries under the Civil Service Retirement Act (U.S. Code, title 5, c. 14), and said fund is hereby appropriated for the payment of the annuities, refunds, and allowances as provided in this article.

Every employee coming within the provisions of this article shall be deemed to consent and agree to the deductions from salary, pay, or compensation as provided herein, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services rendered by such employee during the period covered by such payment, except the right to the benefits to which he shall be entitled under the provisions of this article, notwithstanding the provisions of any other law, rule, or regulation affecting the salary, pay, or compensation of any person or persons to whom this article applies. (Mar. 2, 1931, ch. 375, sec. 9, 46 Stat. 1477 [U.S. Code, title 48, sec. 1371h].)

100. Investments and accounts.—The Secretary of the Treasury shall invest from time to time in interest-bearing securities of the United States or in Federal farm-loan bonds such portions of the Canal Zone retirement and disability fund as in his judgment may not be immediately required for the payment of the annuities, refunds, and allowances herein authorized, and the incomes derived from such investments shall constitute a part of such fund. (Mar. 2, 1931, ch. 375, sec. 10, 46 Stat. 1477 [U.S. Code, title 48, sec. 1371i].)

101. Return of amounts deducted from salaries.—(a) Under such regulations as may be prescribed by the Civil Service Commission the amounts deducted and withheld from the basic salary, pay, or compensation of each employee for credit to the civil-service retirement and disability fund or the Panama Railroad pension fund, covering service rendered prior to July 1, 1931, shall be credited to an individual account of such employee to be maintained by the Panama Canal, and the amounts deducted and withheld from the basic salary, pay, or compensation of each employee for credit to the Canal Zone retirement and disability fund, covering service from and after July 1, 1931, less the sum of $1 per month or major fraction thereof, shall similarly be credited to such individual account.

(b) In the case of any employee to whom this article applies who shall be transferred to a position not within the purview of the article, or who shall become absolutely separated from the service before becoming eligible for retirement on annuity, the amount credited to his individual account shall be returned to such employee together with interest at 4 per centum per annum compounded on June 30 of each year: *Provided*, That when any employee becomes involuntarily separated from the service, not by removal for cause on charges of misconduct or delinquency, the total amount of his deductions with interest thereon shall be paid to such employee: *And provided further*, That all moneys so returned to an employee must, upon reinstatement, retransfer, or reappointment to a position coming within the purview of this article, be redeposited with interest before such employee may derive any benefits under this article, except as provided in this section, but interest shall not be required covering any period of separation from the service.

(c) In case an annuitant shall die without having received in annuities purchased by the employee's contributions as provided in (2) of section 96 of this title an amount equal to the total amount to his credit at time of retirement, the amount remaining to his credit shall be paid in one sum to his legal representatives upon the establishment of a valid claim therefor, unless the annuitant shall have elected to receive an increased annuity as provided in section 96 of this title.

(d) In case an employee shall die without having attained eligibility for retirement or without having established a valid claim for annuity, the total amount of his deductions with interest thereon shall be paid to the legal representatives of such employee.

(e) In case a former employee entitled to the return of the amount credited to his individual account shall become legally incompetent, the total amount due may be paid to a duly appointed guardian or committee of such employee.

(f) If the amount of accrued annuity or of refund due a former employee who is legally incompetent does not exceed $1,000, and if there has been no demand upon the Administrator of Veterans' Affairs by a duly appointed executor, administrator, guardian, or committee, payment may be made, after the expiration of thirty days from date of death or of separation from the service, as the case may be, to such person or persons as may appear in the judgment of the Administrator of Veterans' Affairs to be legally entitled thereto, and such payment shall be a bar to recovery by any other person. (Mar. 2, 1931, ch. 375, sec. 11, 46 Stat. 1477 [U.S. Code, title 48, sec. 1371j].)

102. Payment of annuities.—Annuities granted under the terms of this article shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued; and payment of all annuities, refunds, and allowances granted hereunder shall be made by checks drawn and issued by the disbursing clerk for the payment of pensions in such form and manner and with such safeguards as shall be prescribed by the Administrator of Veterans' Affairs in accordance with the laws, rules, and regulations governing accounting that may be found applicable to such payments.

Applications for annuity shall be in such form as the Administrator of Veterans' Affairs may prescribe, and shall be supported by such certificates from the heads of departments, branches, or independent offices of the Government or the Panama Railroad Company in which the applicant has been employed as may be necessary to the determination of the rights of the applicant. Upon receipt of satisfactory evidence the Administrator of Veterans' Affairs shall forthwith adjudicate the claim of the applicant, and if title to annuity be established, a proper certificate shall be issued to the annuitant under the seal of the Veterans' Administration.

Annuities granted under the provisions of sections 92 and 93 of this title shall commence from the date of separation from the service and shall continue during the life of the annuitant. Annuities granted under the provisions of sections 94 and 95 of this title shall be subject to the limitations specified in said sections. (Mar. 2, 1931, ch. 375, sec. 12, 46 Stat. 1478 [U.S. Code, title 48, sec. 1371k].)

103. Benefits extended to those already retired.—In the case of those employees of the Panama Canal or the Panama Railroad Company who before July 1, 1931, shall have been retired on annuity under the provisions of the Civil Service Retirement Act (U.S. Code, title 5, ch. 14), or said Act as amended, or as extended by Executive orders, or under the provisions of the Panama Railroad pension plan, the annuity shall be computed, adjusted, and paid under the provisions of this article, but this article shall not be so construed as to reduce the annuity of any person retired before its effective date, nor shall any increase in annuity commence before such effective date.

All those who were separated from the service of either the Panama Canal or the Panama Railroad Company on the Isthmus of Panama, subsequent to August 1, 1920, and before July 1, 1931, not by removal for cause on charges of misconduct or delinquency, without having been granted retirement annuities due to the fact that all of their service which would be allowable under the provisions of this article was not counted in arriving at their total service, and who are otherwise eligible by having made the necessary contributions to the retirement and disability funds as herein provided, shall, from July 1, 1931, be paid annuities in accordance with the provisions of this article. (Mar. 2, 1931, ch. 375, sec. 13, 46 Stat. 1479 [U.S. Code, title 48, sec. 1371l].)

104. Board of actuaries.—The board of actuaries selected by the Administrator of Veterans' Affairs under the provisions of section 16 of the Act of July 3, 1926 (U.S. Code, title 5, sec. 706a), shall make a valuation of the Canal Zone retirement and disability fund at intervals of five years, or oftener, if deemed necessary by the Administrator of Veterans' Affairs. (Mar. 2, 1931, ch. 375, sec. 14, 46 Stat. 1479 [U.S. Code, title 48, sec. 1371m].)

105. Administration.—For the purpose of administration, except as otherwise provided herein, the Administrator of Veterans' Affairs, is hereby authorized and directed to perform, or cause to be performed, any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this article into full force and effect. An appeal to the Administrator of Veterans' Affairs shall lie from the final action or order affecting the rights or interests of any person or of the United States under this article, the procedure on appeal to be as prescribed by the Administrator of Veterans' Affairs.

The Administrator of Veterans' Affairs shall make a detailed comparative report annually, showing all receipts and disbursements on account of annuities, refunds, and allowances under this article, together with the total number of persons receiving annuities and the total amounts paid them; and he shall transmit to Congress the reports and recommendations of the board of actuaries.

The Administrator of Veterans' Affairs shall submit annually to the Bureau of the Budget estimates of the appropriations necessary to finance the Canal Zone retirement and disability fund, and to continue this article in full force and effect. (Mar. 2, 1931, ch. 375, sec. 15, 46 Stat. 1479 [U.S. Code, title 48, sec. 1371n].)

NOTE.—Executive order no. 6670, dated April 7, 1934, provides for the transfer of the administration of this article to the United States Civil Service Commission.

106. Moneys not assignable or subject to legal process.—None of the moneys mentioned in this article shall be assignable, either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process. (Mar. 2, 1931, ch. 375, sec. 16, 46 Stat. 1480 [U.S. Code, title 48, sec. 1371o].)

107. Effective date.—This article shall take effect July 1, 1931, and from and after that date the provisions of the Civil Service Retirement Act (U.S. Code, title 5, ch. 14), shall not apply to employees of the Panama Canal on the Isthmus of Panama or to any other employees coming within the provisions of this article: *Provided*, *however*, That any employee of the Panama Canal who shall attain the age of eligibility for retirement without having rendered sufficient service on the Isthmus of Panama to entitle him to be retired on an annuity as provided by section 92 of this title, but whose aggregate employment under the United States would be sufficient in character and duration to entitle him to receive an annuity under the provisions of the Civil Service Retirement Act, will be eligible to retire and receive an annuity under the provisions of that Act and payable from the civil service retirement and disability fund; and in such event the employee shall be entitled, upon separation from the service, to the refund, under such regulations as the Administrator of Veterans' Affairs may prescribe, of any excess in the deductions made from his salary, pay, or compensation under the provisions of this article, with interest, over those which would have been made at the rate fixed by the Civil Service Retirement Act as amended; and the Administrator of Veterans' Affairs shall certify to the Secretary of the Treasury the amount remaining to the credit of such employee in the Canal Zone retirement and disability fund, and said amount shall be transferred on the books of the Treasury Department to the civil service retirement and disability fund. (Mar. 2, 1931, ch. 375, sec. 17, 46 Stat. 1480 [U.S. Code, title 48, sec. 1371 p.].)

ARTICLE 3.—COMPENSATION FOR INJURIES TO CANAL AND RAILROAD EMPLOYEES

Sec.
121. Application of Federal Employees' Compensation Act to Canal and Railroad employees.
122. Release or assignment of rights arising from liability of Panama Railroad Co.
123. Transfer of administration of act to Governor; modifications of act in respect to Canal and Railroad employees.

121. Application of Federal Employees' Compensation Act to Canal and Railroad employees.—The term "employee" whenever used in the Act of September 7, 1916 (ch. 458, 39 Stat. 742), as amended (U.S. Code, title 5, ch. 15), includes all employees of the Panama Canal and of the Panama Railroad Company. (Sept. 7, 1916 ch. 458, sec. 40, 39 Stat. 750; June 5, 1924, ch. 261, sec. 2, 43 Stat. 389 [U.S. Code, title 5, sec. 790].)

CROSS-REFERENCE

The Federal Employees' Compensation Act cited in the above section is shown in the appendix at page 876.

122. Release or assignment of rights arising from liability of Panama Railroad Company.—If an injury or death for which compensation is payable under the Act of September 7, 1916 (ch. 458, 39 Stat. 742), as amended (U.S. Code, title 5, ch. 15), is caused under circumstances creating a legal liability in the Panama Railroad Company to pay damages therefor under the laws of any State, Territory, or possession of the United States or of the District of Columbia or of any foreign country, no compensation shall be payable until the person entitled to compensation releases to the Panama Railroad Company any right of action which he may have to enforce such liability of the Panama Railroad Company, or until he assigns to the United States any right which he may have to share in any money or other property received in satisfaction of such liability of the Panama Railroad Company. (Sept. 7, 1916, ch. 458, sec. 41, 39 Stat. 750 [U.S. Code, title 5, sec. 791].)

123. Transfer of administration of act to Governor; modifications of act in respect to Canal and Railroad employees.—The President may, from time to time, transfer the administration of the Act of September 7, 1916 (ch. 458, 39 Stat. 742), as amended (U.S. Code, title 5, ch. 15), so far as employees of the Panama Canal and of the Panama Railroad Company are concerned to the Governor of the Panama Canal, in which case the words "commission" and "its" wherever they appear in said act shall, so far as necessary to give effect to such transfer, be read "Governor of the Panama Canal" and "his"; and the expenses of medical examinations under sections 21 and 22 of said act, as amended (U.S. Code, title 5, secs. 771 and 772), and the reasonable traveling and other expenses and loss of wages payable to employees under section 21 of said act, as amended, shall be paid out of appropriations for the Panama Canal or out of funds of the Panama Railroad, as the case may be, instead of out of the appropriation for the work of the United States Employees' Compensation Commission.

In the case of compensation to employees of the Panama Canal or of the Panama Railroad Company for temporary disability, either total or partial, the President may authorize the Governor of the Panama Canal to waive, at his discretion, the making of the claim required by section 18 of said act (U.S. Code, title 5, sec. 768). In the case of alien employees of the Panama Canal or of the Panama Railroad Company, or of any class or classes of them, the President may remove or modify the minimum limit established by section 6 of said act, as amended (U.S. Code, title 5, sec. 756), on the monthly compensation for disability and the minimum limit established by clause (K) of section 10 of said act, as amended (U.S. Code, title 5, sec. 760) on the monthly pay on which death compensation is to be computed. The President may authorize the Governor of the Panama Canal to pay the compensation provided by said act, including the medical, surgical, and hospital services and supplies provided by section 9 of said act, as amended (U.S. Code, title 5, sec. 759), and the transportation and burial expenses provided by sections 9 and 11 of said act (U.S. Code, title 5, secs. 759 and 761), out of the appropriations for the Panama Canal, such appropriations to be reimbursed for such payments by the transfer of funds from the employees' compensation fund. (Sept. 7, 1916, ch. 458, sec. 42, 39 Stat. 750 [U.S. Code, title 5, sec. 793].)

CHAPTER 7.—EXCLUSION AND DEPORTATION OF PERSONS

Sec.
141. Regulations as to right to enter or remain upon Canal Zone.
142. Punishment of persons deported from Canal Zone who return thereto.

Section 141. Regulations as to right to enter or remain upon Canal Zone.—The President is authorized to make rules and regulations, and to alter or amend the same from time to time:

a. Touching the right of any person to enter, remain upon or pass over any part of the Canal Zone; and

b. For the detention of any person entering the Canal Zone in violation of such rules and regulations, and the return of such person to the country whence he came, on the vessel bringing the person to the Canal Zone, or any other vessel belonging to the same owner or interest, and at the expense of such owner or interest; and in addition to the punishment prescribed by this section for violation of such rules and regulations, the authorities of the Canal Zone may withhold the clearance of the vessel from any port in the Canal Zone until any fine imposed and the cost of maintenance of the person are paid.

Any person violating any of such rules or regulations shall be punished by a fine of not more than $500, or by imprisonment in jail for not more than one year, or by both. (Aug. 21, 1916, ch. 371, sec. 10, 39 Stat. 529 [U.S. Code, title 48, sec. 1321].)

CROSS-REFERENCES

Punishment for importing foreign criminals, see title 5, section 184.
Extradition of persons accused of crime, see title 6, sections 861 et seq.

142. Punishment of persons deported from Canal Zone who return thereto.—Any person who voluntarily returns to the Canal Zone after having served a sentence of imprisonment therein and after being deported therefrom, shall:

a. Be punished by imprisonment in the penitentiary for not more than two years; and

b. Be removed from the Canal Zone upon the completion of his sentence, in accordance with the laws and orders relating to deportation.

A voluntary entry into the Canal Zone for any purpose shall be sufficient to constitute a return to the Zone within the meaning of this section, except that the Governor of the Panama Canal may, in his discretion, in a case of necessity, grant a permit to any such person to return to the Canal Zone temporarily. Any such person who remains in the Canal Zone after the expiration of the time specified in the permit shall be deemed guilty of a violation of this section and be punished as herein provided. (July 5, 1932, ch. 423, 47 Stat. 577.)

CHAPTER 8.—INSPECTION OF VESSELS

Sec.
151. Vessels subject to inspection in general.
152. Inspection of foreign vessels.
153. Regulations governing inspection.
154. Issuance and display of certificate of inspection.
155. Refusal of certificate of inspection.
156. Failure to have or display certificate; receiving excess passengers; fines.
157. Revocation of certificate for changes in condition of vessel.
158. Small vessels propelled by machinery; registration, certification, and numbering; licensing of operators; fines.
159. Small vessels not propelled by machinery; registration and numbering; fines.
160. Small vessels carrying passengers; certificate; inspection; fines.

Section 151. Vessels subject to inspection in general.—All vessels navigating the waters of the Canal Zone, except public vessels of all nations, and private vessels merely transiting the Canal, shall be subject to an annual inspection of hulls, boilers, machinery, equipment, and passenger accommodations. (Feb. 16, 1933, ch. 88, sec. 1, 47 Stat. 811 [U.S. Code, title 48, sec. 1336a].)

CROSS-REFERENCES

Regulations governing the navigation of the harbors and other waters of the Canal Zone, see section 9 of this title.

Radio equipment on ocean-going vessels using ports, see sections 361 and 362 of this title.

152. Inspection of foreign vessels.—A foreign vessel of a country which has inspection laws approximating those of the United States, having an unexpired certificate of inspection duly issued by the authorities of the said country, shall not be subjected to an inspection other than that necessary to determine whether the vessel, boilers and life-saving equipment are as stated in the certificate of inspection; but no such certificate of inspection shall be accepted as evidence of lawful inspection unless like privileges are granted to vessels of the United States under the laws of the country to which such vessel belongs. (Feb. 16, 1933, ch. 88, sec. 2, 47 Stat. 811 [U.S. Code, title 48, sec. 1336b].)

153. Regulations governing inspection.—The Governor of the Panama Canal is authorized to prescribe regulations concerning the inspection referred to in the two next preceding sections, which regulations shall conform as nearly as practicable to the laws and regulations governing the Steamboat Inspection Service of the United States. (Feb. 16, 1933, ch. 88, sec. 1, 47 Stat. 811 [U.S. Code, title 48, sec. 1336a].)

154. Issuance and display of certificate of inspection.—When the board of local inspectors of the Panama Canal approves a vessel and its equipment, a certificate of inspection, in triplicate, shall be issued by the Canal authorities, two copies of which shall be displayed in conspicuous places in the vessel where they are most likely to be observed by passengers and others, and there kept at all times framed under glass. (Feb. 16, 1933, ch. 88, sec. 3, 47 Stat. 811 [U.S. Code, title 48, sec. 1336c].)

155. Refusal of certificate of inspection.—When the board of local inspectors fails to approve the vessel or its equipment, a certificate of inspection shall be refused, and the board of local inspectors shall make a statement in writing giving the reason for failure to approve, filing such statement in the records of the board, and giving a copy thereof to the owner, agent or master of the vessel. (Feb. 16, 1933, ch. 88, sec. 4, 47 Stat. 811 [U.S. Code, title 48, sec. 1336d].)

156. Failure to have or display certificate; receiving excess passengers; fines.—Any vessel, other than those excepted in section 151 of this title, that navigates the waters of the Canal Zone without having an unexpired certificate of inspection issued by the Canal authorities or by the Steamboat Inspection Service of the United States, or an unexpired certificate accepted by the Canal authorities under section 152 of this title, shall be subject to a fine of not more than $1,000; and whenever any passenger is received on board a vessel not having certified copies of the certificate of inspection placed and kept as required by section 154 of this title, or whenever passengers are received on board a vessel in excess of the number authorized by said certificate of inspection, such vessel shall be liable to a fine of not more than $100 for each passenger so received.

Fines shall be recovered in the district court, and the amount so recovered shall be a lien upon such vessel, and it may be seized and sold to satisfy same, as well as the costs of the court proceedings. (Feb. 16, 1933, ch. 88, sec. 5, 47 Stat. 811 [U.S. Code, title 48, sec. 1336e].)

157. Revocation of certificate for changes in condition of vessel.—In case a vessel holding an unexpired certificate issued by the Canal authorities shall change its condition as to hull, boilers, machinery, equipment or accommodations for passengers in such manner as not to conform to the regulations under which such certificate was issued, the board of local inspectors is authorized to make an inspection and to recommend revocation of the certificate of inspection, and upon approval of such recommendation by the marine superintendent, or such other officer of the Panama Canal as may be designated by the Governor, a notice of revocation will be issued to the owner, agent or master of the vessel; and after such notice of revocation the navigation of Canal Zone waters by such vessel shall subject it to the penalty prescribed by section 156 of this title. (Feb. 16, 1933, ch. 88, sec. 6, 47 Stat. 811 [U.S. Code, title 48, sec. 1336f].)

158. Small vessels propelled by machinery; registration, certification, and numbering; licensing of operators; fines.—Small vessels propelled in whole or in part by machinery, other than public vessels of the United States or of the Republic of Panama, shall be registered, certificated and numbered, and shall display the numbers assigned in a conspicuous place in prescribed form. Such vessels shall not be operated except by an operator holding a license to operate, issued after examination by the board of local inspectors, and approval of such examination by the marine superintendent or such other officer of the Panama Canal as may be designated by the Governor. Any vessel which is operated in Canal Zone waters in violation of any of the requirements of this section shall be liable to a fine of not more than $100. (Feb. 16, 1933, ch. 88, sec. 7, 47 Stat. 812 [U.S. Code, title 48, sec. 1336g].)

159. Small vessels not propelled by machinery; registration and numbering; fines.—Small vessels not propelled in whole or in part by machinery shall be registered and numbered, and when numbers have been assigned they shall be displayed in a conspicuous place in prescribed form. Any vessel which is operated in Canal Zone waters in violation of any of the requirements of this section shall be liable to a fine of not more than $100. (Feb. 16, 1933, ch. 88, sec. 8, 47 Stat. 812 [U.S. Code, title 48, sec. 1336h].)

160. Small vessels carrying passengers; certificate; inspection; fines.—Vessels under 65 feet in length, before carrying passengers for hire in Canal Zone waters, shall obtain a certificate from the Canal Zone authorities to engage in this business, and such certificate shall specify the number of passengers and life preservers and the fire-fighting apparatus which the vessel must carry. Such vessels shall be subject to annual inspection, and the certificate referred to will be granted for one year only. Any such vessel which shall carry passengers for hire without first having obtained the certificate required by this section, or which shall carry passengers in excess of the number authorized by such certificate, shall be liable to a fine of not more than $100 for each passenger so carried. (Feb. 16, 1933, ch. 88, sec. 9, 47 Stat. 812 [U.S. Code, title 48, sec. 1336i].)

CHAPTER 9.—INTOXICATING LIQUORS

NOTE.—The chapter heading "Intoxicating Liquors" has been reserved here in order to accommodate any special liquor legislation which may be enacted for the Canal Zone, supplanting, in application to the Zone, the National Prohibition Act and the acts amendatory thereof and supplemental thereto.

CHAPTER 10.—KEEPING AND IMPOUNDING OF DOMESTIC ANIMALS

Sec.
201. Regulations relative to keeping and impounding of domestic animals.
202. Violation of regulations; punishment.

Section 201. Regulations relative to keeping and impounding of domestic animals.—The Governor of the Panama Canal is authorized to make and publish, and from time to time amend, regulations:

a. Governing the keeping of domestic animals within the Canal Zone;

b. Prescribing where and under what conditions domestic animals may be permitted to be at large, and when, where and under what conditions such domestic animals shall be confined; and

c. Providing for—

(1) The impounding of animals;

(2) The charges to be paid for the impounding and care of such animals if claimed by the owner;

(3) The disposition of unclaimed animals; and

(4) The disposition of the proceeds of the sale of such unclaimed animals, if sold. (July 5, 1932, ch. 427, sec. 1, 47 Stat. 578.)

CROSS-REFERENCE

Offenses in relation to the keeping, etc., of animals, see title 5, sections 561 to 567, 608 and 810.

202. Violation of regulations; punishment.—Any person who shall violate any provision of the regulations established under the next preceding section, shall be guilty of a misdemeanor. (July 5, 1932, ch. 427, sec. 2, 47 Stat. 579.)

CHAPTER 11.—NOTARIES PUBLIC

Section 211. Appointment and regulation by Governor.—The Governor of the Panama Canal shall appoint all notaries public, prescribe their powers and duties, their official seal, and the fees to be charged and collected by them. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1336].)

CHAPTER 12.—PANAMA RAILROAD COMPANY; RAILROADS

Art. Sec.
1. In General ____________________ 221
2. Safety Appliances ______________ 241

CROSS-REFERENCES

Carriers, their rights, duties, and liabilities, see title 3, sections 1391 to 1459.

Consolidation of functions in respect to receiving, disbursing, and accounting for funds, see section 31 of this title.

Compensation for injuries to employees of Panama Railroad Company, see sections 121 to 123 of this title.

Liability of railroads to their employees in certain cases, see U.S. Code, title 45, sections 52 to 59 (appendix, p. 989).

Retirement of Panama Railroad employees on Isthmus who are citizens, see sections 91 to 107 of this title.

Malicious injuries to railroads, see title 5, sections 826 and 827.

Other offenses in relation to railroads, see title 5, sections 521, 523 to 526, 664, 688, 739, 740, 824, 843 and 844.

Suits in Admiralty Act not to apply to Panama Railroad, see U.S. Code, title 46, section 741 (appendix, p. 991).

Transfer to Shipping Board of vessels owned by Panama Railroad Co. and not required in its business, see U.S. Code, title 46, section 806.

ARTICLE 1.—IN GENERAL

Sec.
221. Annual payment by Panama Railroad Co. to United States not required.
222. Carriage by Panama Railroad Co. of marine and fire insurance.
223. Contracts between Panama Railroad Co. and departments of Government.
224. Hours of work for telegraph operators and train dispatchers.

Section 221. Annual payment by Panama Railroad Company to United States not required.—Payment by the Panama Railroad Company to the United States, in accordance with the treaty with Panama, of the annual subsidy of $250,000, as provided by the concession granted by the United States of Colombia, shall not be required. (June 25, 1910, ch. 384, sec. 2, 36 Stat. 772 [U.S. Code title 48, sec. 1334].)

222. Carriage by Panama Railroad Company of marine and fire insurance.—The Panama Railroad Company shall carry no insurance to cover marine or fire losses. (Mar. 4, 1911, ch. 285, sec. 2, 36 Stat. 1451 [U.S. Code, title 48, sec. 1333].)

223. Contracts between Panama Railroad Company and departments of Government.—The Panama Railroad Company shall not be required to give bond, either with or without surety, in contracts which it may make to furnish services, materials, or supplies to the Army, Navy, Marine Corps, or other departments of the Government, and such contracts may be made for periods less than one year, as may be agreed on, and formal contracts in writing shall not be required unless agreed on. (Mar. 4, 1911, ch. 285, sec. 6, 36 Stat. 1452 [U.S. Code, title 48, sec. 1335].)

224. Hours of work for telegraph operators and train dispatchers.—No operator, train dispatcher or other employee of the Panama Railroad Company who by the use of the telegraph or telephone dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements shall be required or permitted to be or remain on duty for a longer period than nine hours in any twenty-four-hour period in any tower, office, place or station continuously operated night and day, nor for a longer period than thirteen hours in any tower, office, place or station operated only during the daytime, except in case of emergency, when the employees named in this section may be permitted to be and remain on duty for four additional hours in a twenty-four-hour period on not exceeding three days in any week.

ARTICLE 2.—SAFETY APPLIANCES

Sec.
241. Requirements of Safety Appliance Acts extended to Canal Zone.
242. Running boards, ladders, sill steps, roof handholds, and brake shafts.
243. Maintenance of appliances in good and working order.
244. Observance by Panama Railroad.

241. Requirements of Safety Appliance Acts extended to Canal Zone.—The requirements of the Safety Appliance Acts (U.S. Code, title 45, secs. 1 to 10), relating to the use on trains of certain described and approved driving-wheel and train brakes, couplers, hand holds, and draw bars of required height for freight cars, shall be extended to apply to the Canal Zone.

242. Running boards, ladders, sill steps, roof handholds, and brake shafts.—The various appliances for the protection of trainmen on freight train cars, with reference to running boards, ladders, sill steps, roof handholds, and the position of brake shafts, as designated in the existing standards of the Master Car Builders' Association in the United States, shall be used by all carriers in the Canal Zone.

243. Maintenance of appliances in good and working order.—The equipment and appliances required to be used in sections 241 and 242 of this title shall be constantly and at all times maintained in good and working order by any and all railroads engaged in the business of a common carrier and operating in the Canal Zone.

244. Observance by Panama Railroad.—In particular, sections 241 to 244 of this title shall be carefully observed and obeyed by the Panama Railroad, a carrier operating in the Canal Zone.

NOTE.—With respect to the use of safety appliances on railroads operated and cars used by the Government of the United States within reservations and other territories under its jurisdiction, section 5 of the Executive order of January 6, 1909, as amended by the Executive order of March 19, 1913, provides as follows:

"All railroads operated and cars used by the Government of the United States within navy yards, arsenals, military reservations, Government wharves, and any and all other territories under the jurisdiction of the United States, shall be equipped with the safety appliances required in the Safety Appliance Acts mentioned and described in section 1 of this order (sec. 241 of this title), and in the codes of rules mentioned and described in section 2 of this order (sec. 242 of this title); and said equipment and appliances shall at all times be maintained in good and working order.

"The application of the requirements of the Safety Appliance Acts to equipment of rolling stock at navy yards is hereby so far modified that the cars and engines at yards and stations will be fitted with safety appliances only to such extent as may, in the judgment of the commandant, subject to the approval of the Chief of the Bureau of Yards and Docks, Navy Department, be deemed necessary or advisable."

CHAPTER 13.—PARDONS AND REPRIEVES AND REMISSION OF FINES AND FORFEITURES

Section 261. Authority of Governor.—The Governor may grant pardons and reprieves and remit fines and forfeitures for offenses against the laws of the Canal Zone and reprieves for offenses against the laws of the United States until the decision of the President is made known thereon. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1342].)

CROSS-REFERENCES

Issuance of permits to be at liberty, to persons imprisoned as habitual criminals, see title 5, sections 75 and 76.

Suspension of execution of judgment of death, see title 6, section 523.

Suspension of sentence by district and magistrates' courts, see title 6, sections 500 and 501.

CHAPTER 14.—POSTAL SERVICE

Sec.
271. Application of United States postal laws, rules and regulations.
272. Authority of Governor in respect to the service.
273. Defraying expenses from revenues so far as possible.
274. Rate of interest on deposit money orders.
275. Use of interest from money order funds deposited in banks.

Section 271. Application of United States postal laws, rules, and regulations.—The postal service of the Canal Zone shall be governed, except as otherwise provided in this chapter, by such of the laws, rules and regulations of the Postal Service of the United States as are not inapplicable to the conditions existing in the Canal Zone. (Feb. 16, 1933, ch. 89, sec. 1, 47 Stat. 812 [U.S. Code, title 48, sec. 1323a].)

CROSS-REFERENCES

Extension to Canal Zone of United States laws and regulations defining crimes against the postal service, see title 5, section 111.

For the laws of the Postal Service of the United States, see U.S. Code, title 39.

272. Authority of Governor in respect to the service.—The Governor of the Panama Canal is authorized:

a. To establish new post offices or discontinue those already established;

b. To provide such rules and regulations as are necessary for the operation of the service;

c. To appoint the personnel of the service; and

d. To prescribe the postage stamps and other stamped paper which shall be used in the service. (Feb. 16, 1933, ch. 89, sec 1, 47 Stat. 812 [U.S. Code, title 48, sec. 1323a].)

273. Defraying expenses from revenue so far as possible.—The expenses of operating the Canal Zone postal service shall be defrayed, so far as possible, from the revenue derived therefrom, the use of which for that purpose is authorized. (Feb. 16, 1933, ch. 89, sec. 1, 47 Stat. 812 [U.S. Code, title 48, sec. 1323a].)

274. Rate of interest on deposit money orders.—Deposit money orders issued in the Canal Zone in lieu of postal savings certificates in accordance with rules and regulations heretofore established by the President, or that may hereafter be established by him, shall bear interest at a rate not exceeding 3 per centum per annum. (Feb. 16, 1933, ch. 89, sec. 2, 47 Stat. 812 [U.S. Code, title 48, sec. 1323b].)

275. Use of interest from money order funds deposited in banks.—The interest received from the Canal Zone money-order funds deposited in banks under Canal Zone regulations shall form a part of the postal revenues and shall be available to pay:

a. The interest on deposit money orders authorized by the next preceding section; and

b. The losses which are chargeable to the Canal Zone postal service. (Feb. 16, 1933, ch. 89, sec. 3, 47 Stat. 812 [U.S. Code, title 48. sec. 1323c].)

CHAPTER 15.—PROTECTION OF BIRDS AND THEIR NESTS

Sec.
291. Regulations for protection of birds and their nests.
292. Taking, disturbing, or killing birds or taking eggs.
293. Violations of law or regulations; punishment.

Section 291. Regulations for protection of birds and their nests.—The Governor of the Panama Canal shall:

a. Make and publish suitable regulations, from time to time, for the protection of birds and their nests within the Canal Zone; and

b. Prescribe the form and manner in which birds may be hunted therein and the kinds of birds that may be hunted and that shall not be molested. (July 5, 1932, ch. 420, sec. 1, 47 Stat. 576.)

Cross-Reference

Carrying and keeping of arms, and hunting, see title 5, sections 871 to 877.

292. Taking, disturbing, or killing birds or taking eggs.—No person shall hunt, trap, capture, willfully disturb, or kill any bird of any kind whatever, or take the eggs of any bird, within the Canal Zone, except in the form and manner permitted by the regulations provided for by the next preceding section. (July 5, 1932, ch. 420, sec. 2, 47 Stat. 576.)

293. Violations of law or regulations; punishment.—A violation of any of the provisions of the next preceding section or of any of the regulations established under section 291 of this title shall be punished for each offence by a fine of not more than $100, or by imprisonment in jail for not more than thirty days. (July 5, 1932, ch. 420, sec. 3, 47 Stat. 576.)

CHAPTER 16.—PUBLIC LANDS

Sec.
301. Acquisition by United States of title to land in Canal Zone.
302. Withdrawal of certain tract from effect of next preceding section.
303. Lease of public lands; land survey.
304. Revocable licenses for lots in town sites.

Section 301. Acquisition by United States of title to land in Canal Zone.—The President is authorized to declare by Executive order that all land and land under water within the limits of the Canal Zone is necessary for the construction, maintenance, operation, sanitation or protection of the Panama Canal, and to extinguish, by agreement when advisable, all claims and titles of adverse claimants and occupants. Upon failure to secure by agreement title to any such parcel of land or land under water the adverse claim or occupancy shall be disposed of and title thereto secured in the United States and compensation therefor fixed and paid in the manner provided in the treaty with the Republic of Panama dated November 18, 1903, or such modification of that treaty as may be made. (Aug. 24, 1912, ch. 390, sec. 3, 37 Stat. 561 [U.S. Code, title 48, sec. 1304].)

Cross-Reference

Establishment of Canal Zone, see section 2 of this title.

302. Withdrawal of certain tract from effect of next preceding section.—The following tract of land situated within the Canal Zone, and more particularly described as lots numbered 641, 643, 645, and 647, in the town of Cristobal, Canal Zone, the same being bounded on the north by Eleventh Street, on the east by Bolivar Street, on the south by lot numbered 649, and on the west by a vacant lot, the said lots or tract of land having an extension from north to south of 120 feet and from east to west of 100 feet, and measuring in superficial area 12,000 square feet, is withdrawn from the operation of the next preceding section and the Executive order of December 5, 1912, relating thereto.

The Panama Railroad Company is authorized to sell, transfer and convey said lots or tracts of land with all improvements thereon to any other person or persons or association of persons and retain the consideration therefor for its own use. (June 5, 1920, ch. 239, secs. 1 and 2, 41 Stat. 948.)

303. Lease of public lands; land survey.—The President is authorized to grant leases of the public lands in the Canal Zone for such period, not exceeding twenty-five years, and upon such terms and conditions as he may deem advisable. No lease, however, shall be granted for a tract of land in excess of fifty hectares, nor to any person who shall not have first established, by affidavit and by such other proof as may be required, that such person is the head of a family or over the age of twenty-one years, and that the application for a lease is made in good faith for the purposes of actual settlement and cultivation, and not for the benefit of any other person whatsoever, and that such person will faithfully comply with all the requirements of law as to settlement, residence, and cultivation. In granting such leases preference shall be accorded to actual occupants of lands in good faith.

No portion of the lands of the United States within the Canal Zone shall be leased hereunder unless it shall first be made to appear by a statement or plat filed by the Governor of the Panama Canal with the Collector of the Panama Canal, that it is not contemplated to use such lands in the work of canal construction or to set the same aside as a town site; and all leases shall be made subject to the provision that if at any time it shall become necessary, notwithstanding, for the United States to occupy or use any portion of the leased lands, it shall have the right to so do without further compensation to the lessee than for the reasonable value of the necessary improvements made upon said tracts by the lessee, the same to be determined by the courts of the Canal Zone.

All leases of lands hereunder shall reserve to the United States all mineral, oil, and gas rights in the lands leased.

The President may, in his discretion, require a land survey to be made of the Canal Zone.

The powers conferred upon the President under this section may be exercised by him through the Governor of the Panama Canal or in such other manner as the President may designate. (Feb. 27, 1909, ch. 224, secs. 1 to 5, 35 Stat. 658 [U.S. Code, title 48, secs. 1303 and 1308].)

304. Revocable licenses for lots in town sites.—The Governor of the Panama Canal is authorized to execute revocable licenses for lots in town sites in the Canal Zone, either directly or through such agency as he may direct, such licenses to be revocable at his pleasure, licensees to vacate and remove improvements at once without indemnity.

CHAPTER 17.—PUBLIC ROADS AND HIGHWAYS; VEHICLES; FERRIES

Art. Sec.
1. Regulations governing roads, highways, and self-propelled vehicles 321
2. Operation of street-railway cars at crossings 331
3. Ferry and highway near Pacific entrance of Canal 341

ARTICLE 1.—REGULATIONS GOVERNING ROADS, HIGHWAYS, AND SELF-PROPELLED VEHICLES

Sec.
321. Authority of President to make and enforce regulations.
322. Agreements with Panama for reciprocal regulations.
323. Violation of regulations; punishment.

Section 321. Authority of President to make and enforce regulations.—Until otherwise provided by Congress, the President may make, publish, and enforce, and from time to time alter or amend, all rules and regulations for the use of the public roads and highways in the Canal Zone, and for the regulation, licensing, and taxing of the use and operation of all self-propelled vehicles using the public highways, including speed limit, signals, tags, license fees, and all detailed regulations which may from time to time be deemed necessary in the exercise of the authority hereby conferred.

The taxes on automobiles may be graded according to the value or the power of the machine. (Aug. 21, 1916, ch. 371, sec. 3, 39 Stat. 528 [U.S. Code, title 48, sec. 1312].)

CROSS-REFERENCE

Offenses in relation to highways and automobiles, see also title 5, sections 507, 511, 512, 513, 525, 531, 551, 784, 785, 824, 825.

322. Agreements with Panama for reciprocal regulations.—The President may make mutual agreements with the Republic of Panama touching the reciprocal use of the highways of the Canal Zone and the Republic of Panama by self-propelled vehicles, touching taxes and license fees, and any other matter of regulation to establish comity for the convenience of the residents of the two jurisdictions. (Aug. 21, 1916, ch. 371, sec. 3, 39 Stat. 528 [U.S. Code, title 48, sec. 1312].)

323. Violation of regulations; punishment.—Any person who violates any rule or regulation established under the authority of the two next preceding sections shall be punished by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both. (Aug. 21, 1916, ch. 371, sec. 5, 39 Stat. 528 [U.S. Code, title 48, sec. 1314].)

ARTICLE 2.—OPERATION OF STREET-RAILWAY CARS AT CROSSINGS

Sec.
331. Operation at street, road, or street-railway crossing.
332. Operation at railway crossing.
333. Violation of article; punishment.

331. Operation at street, road, or street-railway crossing.—No motorman or other person in control of a street-railway car shall run such car over or upon any street crossing, road crossing or street-railway crossing in the Canal Zone, at a speed of more than twelve miles per hour, and without commencing to sound gong, horn or whistle when at least one hundred feet from the crossing and continuing to sound same until the crossing has been passed. (July 5, 1932, ch. 424, sec. 1, 47 Stat. 577.)

332. Operation at railway crossing.—No motorman or other person in control of a street-railway car shall run such car over or upon any railroad crossing in the Canal Zone, without bringing the car to a full stop at least ten feet from the nearest rail, and without ascertaining from a view of the railroad track made either by himself or by the conductor that the crossing may be safely passed. (July 5, 1932, ch. 424, sec. 2, 47 Stat. 577.)

333. Violation of article; punishment.—A violation of any of the provisions of this article shall be punished by a fine of not more than $100, or by imprisonment in jail for not more than thirty days, or by both. (July 5, 1932, ch. 424, sec. 3, 47 Stat. 577.)

ARTICLE 3.—FERRY AND HIGHWAY NEAR PACIFIC ENTRANCE OF CANAL

Sec.
341. Maintenance of ferry and highway near Pacific entrance.
342. Regulations governing operation and maintenance of ferry; punishment for violations.

341. Maintenance of ferry and highway near Pacific entrance.—The Governor of the Panama Canal, under the supervision of the Secretary of War, is authorized:

a. To maintain and operate, near the Pacific entrance of the Panama Canal, from a point at or near Balboa on the eastern side of the Canal to a suitable point on the opposite shore of the Canal, a ferry for the accommodation of the public and adequate to serve military needs, and for such purposes is authorized to acquire such ferryboats and other equipment, and to construct and maintain such wharves, docks, and approaches, as may be necessary; and

b. To maintain a highway for the accommodation of the public and adequate to serve military needs, extending from the western terminal of such ferry to a point at or near the town of Arraijan at or near the Canal Zone line.

Such ferry and highway shall be operated and maintained free of toll. There are authorized to be appropriated annually such sums as may be necessary to carry out the provisions of this article. (May 27, 1930, ch. 338, secs. 1 to 3, 46 Stat. 388.)

342. Regulations governing operation and maintenance of ferry; punishment for violations.—The Governor of the Panama Canal, subject to the approval of the Secretary of War, is authorized to make rules and regulations governing the operation, use and maintenance of the ferry, equipment, wharves, docks and approaches maintained, acquired and constructed under this article. Any person violating any such rule or regulation shall be punished by a fine of not more than $100, or by imprisonment in jail for not more than thirty days, or by both. (May 27, 1930, ch. 338, sec. 2, 46 Stat. 388.)

CHAPTER 18.—PURCHASE OF SUPPLIES

Section 351. Purchase without advertising where amount does not exceed $500.—The Governor of the Panama Canal may authorize, under such regulations as he may prescribe, the purchase of supplies for the use of the Panama Canal, or for use in the Canal Zone, in the open market and without advertising, if the amount involved in any one purchase does not exceed $500. (Dec. 29, 1926, ch. 19, sec. 6, 44 Stat. 926.)

Cross-References

Advertisement for proposals for purchases and contracts for supplies for departments of Government, see U.S. Code, title 41, section 5 (appendix, p. 987).

Restriction of purchases to articles of growth, production, or manufacture of United States, see U.S. Code, title 41, sections 10a to 10c (appendix, p. 987).

CHAPTER 19.—RADIO EQUIPMENT ON OCEAN-GOING VESSELS USING PORTS

Sec.
361. Radio equipment on vessels using ports and carrying fifty or more persons.
362. Violations; fines and recovery thereof.

Section 361. Radio equipment on vessels using ports and carrying fifty or more persons.—It shall be unlawful for any ocean-going vessel carrying fifty or more persons, including passengers and crew, to leave or attempt to leave any port of the Canal Zone unless such vessel is equipped with an efficient apparatus for radio communication, capable of transmitting and receiving messages for a distance of at least one hundred miles, night or day, and which is in good working order and in charge of a person skilled in the use of such apparatus. This requirement shall not apply to vessels merely transiting the Canal or to vessels plying between Canal Zone ports and ports less than two hundred miles therefrom. (July 5, 1932, ch. 421, sec. 1, 47 Stat. 576 [U.S. Code, title 47, sec. 120].)

Cross-Reference

Inspection of vessels, see sections 151 to 160 of this title.

362. Violations; fines and recovery thereof.—Any vessel leaving or attempting to leave a Canal Zone port not equipped as required by section 361 of this title shall be liable to a fine of not more than $5,000, and each such departure or attempted departure shall constitute a separate offense. Fines shall be recovered in the district court, and the amount so recovered shall be a lien upon the vessel, and it may be seized and sold to satisfy same, as well as all costs of the court proceedings. (July 5, 1932, ch. 421, sec. 2, 47 Stat. 576 [U.S. Code, title 47, sec. 121].)

CHAPTER 20.—SANITATION, HEALTH, AND QUARANTINE

Sec.
371. Rules and regulations in matters of sanitation, health, and quarantine.
372. Regulations respecting practice of healing art.
373. Violation of regulations; punishment.

Section 371. Rules and regulations in matters of sanitation, health, and quarantine.—Until otherwise provided by Congress, the President is authorized:

a. To make rules and regulations in matters of sanitation, health, and quarantine for the Canal Zone; and

b. To modify or change existing rules and regulations and those hereafter made from time to time. (Aug. 21, 1916, ch. 371, sec. 1, 39 Stat. 527; Feb. 16, 1933, ch. 92, 47 Stat. 818 [U.S. Code, title 48, sec. 1310].)

CROSS-REFERENCES

Conspiracy to commit act injurious to public health, see title 5, section 81.
Crimes against the public health and safety, see title 5, sections 501 to 572.

372. Regulations respecting practice of healing art.—The President, under such regulations as he may prescribe, may authorize the Board of Health of the Canal Zone to issue licenses to practice the healing art, which regulations shall include conditions under which such licenses shall be issued and provisions for revocation for cause of licenses issued. (Aug. 21, 1916, ch. 371, sec. 1, 39 Stat. 527; Feb. 16, 1933, ch. 92, 47 Stat. 818 [U.S. Code, title 48, sec. 1310].)

373. Violation of regulations; punishment.—A violation of any quarantine regulation authorized under section 371 of this title shall be punished by a fine of not more than $500, or by imprisonment in jail for not more than ninety days or by both; and a violation of any sanitary or health regulation authorized under sections 371 and 372 of this title shall be punished by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both. Each day such violation shall continue shall constitute a separate offense. (Aug. 21, 1916, ch. 371, sec. 1, 39 Stat. 527; Feb. 16, 1933, ch. 92, 47 Stat. 818 [U.S. Code, title 48, sec. 1310].)

CHAPTER 21.—SEAMEN

Sec.
391. What laws applicable to seamen of vessels of United States.
392. Powers conferred upon shipping commissioner and deputies.

Section 391. What laws applicable to seamen of vessels of United States.—The laws relating to seamen of vessels of the United States on foreign voyages shall apply to seamen of all vessels of the United States at the Canal Zone, whether such vessels be registered or enrolled and licensed. (Aug. 21, 1916, ch. 371, sec. 9, 39 Stat. 529 [U.S. Code, title 48, sec. 1331].)

CROSS-REFERENCE

For laws of United States relating to merchant seamen, see U.S. Code, title 46, sections 541 to 713.

392. Powers conferred upon shipping commissioner and deputies.—The powers in respect of such seamen of such vessels bestowed by law upon consular officers of the United States in foreign ports and upon shipping commissioners in ports of the United States are hereby bestowed upon the shipping commissioner and deputy shipping commissioners in the Canal Zone. (Aug. 21, 1916, ch. 371, sec. 9, 39 Stat. 529 [U.S. Code, title 48, sec. 1331].)

CHAPTER 22.—TAXES AND LICENSES

Sec.
401. Regulations for levying, assessing, and collecting taxes.
402. Violation of such regulations; punishment.

Section 401. Regulations for levying, assessing, and collecting taxes.—Until otherwise provided by Congress, the President is authorized to make and from time to time change rules and regulations for levying, assessing and collecting ad valorem, excise, license and franchise taxes in the Canal Zone. Ad valorem taxes imposed shall not exceed one per centum of the value of the property, nor shall franchise or excise taxes exceed two per centum of gross earnings. (Aug. 21, 1916, ch. 371, sec. 2, 39 Stat. 528 [U.S. Code, title 48, sec. 1311].)

CROSS-REFERENCES

Automobile taxes and licenses, see section 321 of this title.
Failure to give proper tax or license receipts, see title 5, section 626.
Possession of improper blank licenses or tax receipts, see title 5, section 627.

402. Violation of such regulations; punishment.—Any person who commits any act or carries on any business, trade or occupation in the Canal Zone without complying with the rules and regulations established under the next preceding section, shall be punished by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both. (Aug. 21, 1916, ch. 371, sec. 5, 39 Stat. 528 [U.S. Code, title 48, sec. 1314].)

CHAPTER 23.—TOLLS FOR USE OF CANAL

Sec.
411. Authority of President to prescribe and change tolls.
412. Bases of tolls; maximum and minimum rates.
413. Restrictions on construction of 1914 act amending the two next preceding sections.
414. Refund of amounts erroneously received as tolls.

Section 411. Authority of President to prescribe and change tolls.—The President is authorized, subject to the provisions of the section next following, to prescribe and from time to time change the tolls that shall be levied by the Government of the United States for the use of the Panama Canal, but no tolls when prescribed as above shall be changed unless six months' notice thereof is given by the President by proclamation. (Aug. 24, 1912, ch. 390, sec. 5, 37 Stat. 562; June 15, 1914, ch. 106, secs. 1, 2, 38 Stat. 385 [U.S. Code, title 48, sec. 1315].)

412. Bases of tolls; maximum and minimum rates.—Tolls may be based upon gross or net registered tonnage, displacement tonnage, or otherwise, and may be based on one form of tonnage for warships and another for ships of commerce.

The rate of tolls may be lower upon vessels in ballast than upon vessels carrying passengers or cargo.

When based upon net registered tonnage for ships of commerce the tolls shall not exceed $1.25 per net registered ton, nor be less than 75 cents per net registered ton, subject, however, to the provisions of article 19 of the convention between the United States and the Republic of Panama, entered into November 18, 1903.

If the tolls are not based upon net registered tonnage, they shall not exceed the equivalent of $1.25 per net registered ton as nearly as the same may be determined, nor be less than the equivalent of 75 cents per net registered ton.

The toll for each passenger shall not be more than $1.50. (Aug. 24, 1912, ch. 390, sec. 5, 37 Stat. 562; June 15, 1914, ch. 106, secs. 1, 2, 38 Stat. 385 [U.S. Code, title 48, sec. 1315].)

CROSS-REFERENCE

For article 19 of the convention between the United States and the Republic of Panama, see appendix, p. 846.

413. Restrictions on construction of 1914 Act amending the two next preceding sections.—The passage of the Act of June 15, 1914, amending the two next preceding sections, shall not be construed or held:

a. As a waiver or relinquishment of any right the United States may have under the treaty with Great Britain, ratified February 21, 1902, or the treaty with the Republic of Panama, ratified February 26, 1904, or otherwise, to discriminate in favor of its vessels by exempting the vessels of the United States or its citizens from the payment of tolls for passage through the canal; or

b. As in any way waiving, impairing or affecting any right of the United States under those treaties, or otherwise, with respect to the sovereignty over or the ownership, control and management of the Canal and the regulation of the conditions or charges of traffic through the same. (June 15, 1914, ch. 106, sec. 2, 38 Stat. 386 [U.S. Code, title 48, sec. 1317].)

CROSS-REFERENCES

For treaty with Great Britain, ratified February 21, 1902, see appendix, p. 837.

For treaty with the Republic of Panama, ratified February 26, 1904, see appendix, p. 839.

414. Refund of amounts erroneously received as tolls.—There is appropriated, out of any money received as tolls, before such money is covered into the Treasury as miscellaneous receipts, amounts necessary to refund to the parties entitled thereto amounts which have been or may hereafter be erroneously received as tolls and covered into the Treasury as miscellaneous receipts. (June 12, 1917, ch. 27, sec. 1, 40 Stat. 179 [U.S. Code, title 48, sec. 1316].)

CHAPTER 24.—WIRELESS TELEGRAPHIC INSTALLATIONS

Section 421. Wireless telegraphic installations in connection with operation of Canal.—The President is authorized:

a. To cause to be erected, maintained and operated, subject to the International Convention and the Act of Congress to regulate radiocommunication, at suitable places along the Panama Canal and the coast adjacent to its two terminals, in connection with the operation of the Canal, such wireless telegraphic installations as he may deem necessary for the operation, maintenance, sanitation and protection of the Canal, and for other purposes.

b. To make such agreement with the Government of Panama as may be required if it is found necessary to locate such installations upon territory of that Republic;

c. To provide for the acceptance and transmission by said system of all private and commercial messages and those of the Government of Panama on such terms and for such tolls as the President may prescribe: *Provided*, *however*, That the messages of the Government of the United States and the departments thereof, and the management of the Panama Canal, shall always be given precedence over all other messages; and

d. In his discretion, to enter into such operating agreements or leases with any private wireless company or companies as may best insure freedom from interference with the wireless telegraphic installations established by the United States. (Aug. 24, 1912, ch. 390, sec. 6, 37 Stat. 563 [U.S. Code, title 48, sec. 1323].)

CROSS-REFERENCE

For "The Act of Congress to regulate radio communication," see the Radio Act of 1927, as amended (U.S. Code, title 47, secs. 81 to 119).

TITLE 3.—THE CIVIL CODE

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CHAPTER 1.—PRELIMINARY PROVISIONS

Sec.
1. Name of title.
2. When this title takes effect.
3. Not retroactive.
4. Rules of construction.
5. Provisions similar to existing laws, how construed.
6. Actions, etc., not affected.
7. Legal holidays.
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9. Computation of time.
10. Certain acts not to be done on holidays.
11. Words and phrases, how construed.
12. Words; definition; signification of words.
13. Notice, actual and constructive.
14. Constructive notice, when deemed.

Section 1. Name of title.—This title shall be known as the Civil Code of the Canal Zone. (Feb. 27, 1933, ch. 128, 47 Stat. 1124.)

NOTE.—The Civil Code of the Canal Zone, which comprises title 3 of the Canal Zone Code, was derived from the act of February 27, 1933, above cited. That act was entitled "An act to provide a new civil code for the Canal Zone and to repeal the existing civil code."

2. When this title takes effect.—The code embodied in this title shall be effective as of October 1, 1933.

3. Not retroactive.—No part of this title is retroactive, unless expressly so declared.

4. Rules of construction.—The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this title. The title establishes the law of the Canal

Zone respecting the subjects to which it relates, and its provisions are to be liberally construed with a view to effect its objects and to promote justice.

5. Provisions similar to existing laws, how construed.—The provisions of this title, so far as they are substantially the same as existing statutes, must be construed as continuations thereof, and not as new enactments.

6. Actions, and so forth, not affected.—No action or proceeding commenced before this title takes effect, and no right accrued, is affected by its provisions.

7. Legal holidays.—The following are the legal holidays in the Canal Zone within the meaning of this title: Every Sunday, January 1, February 22, Good Friday, May 30, July 4, Labor Day, November 3, Thanksgiving Day, and December 25. If a legal holiday other than Sunday falls on the first day of the week, the Monday following will be observed as a legal holiday. As far as practicable, all public business will be suspended on these days.

8. Business days.—All other days than those mentioned in section 7 of this title are to be deemed business days for all purposes.

9. Computation of time.—The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.

10. Certain acts not to be done on holidays.—Whenever any act of a secular nature, other than a work of necessity or mercy, is appointed by law or contract to be performed upon a particular day, which day falls upon a holiday, it may be performed upon the next business day, with the same effect as if it had been performed upon the day appointed.

11. Words and phrases, how construed.—Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, or are defined in section 12 of this title, are to be construed according to such peculiar and appropriate meaning or definition.

CROSS-REFERENCES

Similar provision, see title 4, section 7.
Technical words, how construed, see sections 581 and 911 of this title.
Construction of words in contracts, see sections 910 and 911 of this title.

12. Words; definition; signification of words.—Words used in this title in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as a natural person; writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term "testify", and every written one in the term "depose"; signature or subscription includes mark, when the person cannot write, his name being written near it, by a person who writes his own name as a witness: *Provided*, That when a signature is by mark it must in order that the same may be acknowledged or may serve as the signature to any sworn statement be witnessed by two persons who must subscribe their own names as witnesses thereto. The following words have in this title the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "property" includes property real and personal;
2. The words "real property" are coextensive with lands, tenements, and hereditaments;
3. The words "personal property" include money, goods, chattels, things in action, and evidences of debt;
4. The word "month" means a calendar month, unless otherwise expressed;
5. The word "will" includes codicil.

Cross-Reference

Similar provision, see title 4, section 8.

13. Notice, actual and constructive.—Notice is:

1. Actual—which consists in express information of a fact; or
2. Constructive—which is imputed by law.

14. Constructive notice, when deemed.—Every person who has actual notice of circumstances sufficient to put a prudent man upon inquiry as to a particular fact, has constructive notice of the fact itself in all cases in which, by prosecuting such inquiry, he might have learned such fact.

CHAPTER 2.—PERSONS

Sec.
21. Minors, who are.
22. Periods of minority, how calculated.
23. Adults, who are.
24. Unborn child.
25. Delegation of powers; minors.
26. Contracts by minors.
27. When minor may disaffirm.
28. Minor cannot disaffirm contract for necessaries.
29. Minor cannot disaffirm certain obligations.
Sec.
30. Contracts by persons without understanding.
31. Contracts by persons of unsound mind.
32. Powers of persons whose incapacity has been adjudged.
33. Minors liable for wrongs, but not liable for exemplary damages.
34. Minors may enforce their rights.

Section 21. Minors, who are.—Minors are all persons under twenty-one years of age: *Provided*, That this section shall be subject to the provisions of chapters 4 to 6 of this title and shall not be construed as repealing or limiting the provisions of section 174 of this title: *Provided*, *further*, That upon the lawful marriage of any female of the age of eighteen years or over but under the age of twenty-one years, such female shall be deemed an adult person for the purpose of entering into any engagement or transaction respecting property or any contract, the same as if such person were over twenty-one years of age.

22. Periods of minority, how calculated.—The periods specified in section 21 of this title must be calculated from the first minute of the day on which persons are born to the same minute of the corresponding day completing the period of minority.

23. Adults, who are.—All other persons are adults.

24. Unborn child.—A child conceived, but not yet born, is to be deemed an existing person, so far as may be necessary for its interests in the event of its subsequent birth.

CROSS-REFERENCE

Posthumous children, rights of, see sections 291, 341, 590, and 650 of this title.

25. Delegation of powers; minors.—A minor cannot give a delegation of power, nor, under the age of eighteen, make a contract relating to real property, or any interest therein, or relating to any personal property not in his immediate possession or control.

26. Contracts by minors.—A minor may make any other contract than as specified in the next preceding section, in the same manner as an adult, subject only to his power of disaffirmance under the provisions of this chapter, and subject to the provisions of the chapter on marriage.

27. When minor may disaffirm.—In all cases other than those specified in sections 28 and 29 of this title, the contract of a minor, if made whilst he is under the age of eighteen, may be disaffirmed by the minor himself, either before his majority or within a reasonable time afterwards; or, in case of his death within that period, by his heirs or personal representatives; and if the contract be made by the minor whilst he is over the age of eighteen, it may be disaffirmed in like manner upon restoring the consideration to the party from whom it was received, or paying its equivalent.

28. Minor cannot disaffirm contract for necessaries.—A minor cannot disaffirm a contract, otherwise valid, to pay the reasonable value of things necessary for his support, or that of his family, entered into by him when not under the care of a parent or guardian able to provide for him or them.

29. Minor cannot disaffirm certain obligations.—A minor cannot disaffirm an obligation, otherwise valid, entered into by him under the express authority or direction of a statute.

30. Contracts by persons without understanding.—A person entirely without understanding has no power to make a contract of any kind, but he is liable for the reasonable value of things furnished to him necessary for his support or the support of his family.

CROSS-REFERENCE

Contracts of insane persons, see sections 811 and 812 of this title.

31. Contracts by persons of unsound mind.—A contract of a person of unsound mind, but not entirely without understanding, made before his incapacity has been judicially determined, is subject to rescission, as provided in sections 951 to 954 of this title.

CROSS-REFERENCE

Rescission of contracts, see sections 951 to 954 and 2721 to 2723 of this title.

32. Powers of persons whose incapacity has been adjudged.—After his incapacity has been judicially determined, a person of unsound mind can make no contract, nor delegate any power or waive any right, until his restoration to capacity. But a certificate from the medical superintendent or resident physician of the insane asylum to which such person may have been committed, showing that such person had been discharged therefrom, cured and restored to reason, shall establish the presumption of legal capacity in such person from the time of such discharge.

33. Minors liable for wrongs, but not liable for exemplary damages.—A minor, or person of unsound mind, of whatever degree, is civilly liable for a wrong done by him, but is not liable in exemplary damages unless at the time of the act he was capable of knowing that it was wrongful.

34. Minors may enforce their rights.—A minor may enforce his rights by civil action, or other legal proceedings, in the same manner as a person of full age, except that a guardian must conduct the same.

Cross-Reference

Appearance of minor by guardian, see title 4, sections 127, 128, and 695.

CHAPTER 3.—PERSONAL RIGHTS

Sec.
41. General personal rights.
42. Defamation, what.
43. Libel, what.
44. Slander, what.
45. Privileged publications.
Sec.
46. Malice not inferred.
47. Personal relations forbid abduction and seduction.
48. Right to use force.

Section 41. General personal rights.—Besides the personal rights mentioned or recognized in section 1 of title 1, and in Title 6, The Code of Criminal Procedure, every person has, subject to the qualifications and restrictions provided by law, the right of protection from bodily restraint or harm, from personal insult, from defamation, and from injury to his personal relations.

42. Defamation, what.—Defamation is effected by:

1. Libel;
2. Slander.

43. Libel, what.—Libel is a false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation.

Cross-Reference

Privileged publication, see sections 45 and 46 of this title.

44. Slander, what.—Slander is a false and unprivileged publication other than libel, which:

1. Charges any person with crime, or with having been indicted, convicted, or punished for crime;
2. Imputes in him the present existence of an infectious, contagious, or loathsome disease;
3. Tends directly to injure him in respect to his office, profession, trade, or business, either by imputing to him general disqualification in those respects which the office or other occupation peculiarly

requires, or by imputing something with reference to his office, profession, trade, or business that has a natural tendency to lessen its profits;

4. Imputes to him impotence or a want of chastity; or

5. Which, by natural consequence, causes actual damage.

45. Privileged publications.—A privileged publication is one made—

1. In the proper discharge of an official duty.

2. In any judicial proceeding, or in any other official proceeding authorized by law: *Provided*, That an allegation or averment contained in any pleading or affidavit filed in an action for divorce or an action prosecuted under section 116 of this title made of or concerning a person by or against whom no affirmative relief is prayed in such action shall not be a privileged publication as to the person making said allegation or averment within the meaning of this section unless such pleading be verified or affidavit sworn to, and be made without malice, by one having reasonable and probable cause for believing the truth of such allegation or averment and unless such allegation or averment be material and relevant to the issues in such action.

3. In a communication, without malice, to a person interested therein, (1) by one who is also interested, or (2) by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or (3) who is requested by the person interested to give the information.

4. By a fair and true report, without malice, in a public journal, of (1) a judicial or (2) other public official proceeding, or (3) of anything said in the course thereof, or (4) of a verified charge or complaint made by any person to a public official, upon which complaint a warrant shall have been issued.

5. By a fair and true report, without malice, of (1) the proceedings of a public meeting, if such meeting was lawfully convened for a lawful purpose and open to the public, or (2) the publication of the matter complained of was for the public benefit.

CROSS-REFERENCE

Pleading libel, see title 4, sections 258 and 259.

46. Malice not inferred.—In the cases provided for in subdivisions 3, 4, and 5 of the next preceding section, malice is not inferred from the communication or publication.

47. Personal relations forbid abduction and seduction.—The rights of personal relations forbid:

1. The abduction of a husband from his wife, or of a parent from his child.

2. The abduction or enticement of a wife from her husband, or a child from a parent, or from a guardian entitled to its custody.

3. The seduction of daughter or orphan sister.

CROSS-REFERENCE

Action for seduction, see title 4, sections 129 and 130.
Damages for seduction, see section 2665 of this title.

48. Right to use force.—Any necessary force may be used to protect from wrongful injury the person or property of oneself, or of a wife, husband, child, parent, or other relative, or member of one's family, or of a ward, servant, master, or guest.

CHAPTER 4.—MARRIAGE

Sec.
51. What constitutes marriage.
52. Marriage; how proved.
53. What marriages void without being so decreed.
54. What marriages voidable.
55. Annulment of marriage celebrated elsewhere.
56. Jurisdiction of annulment suit; who may institute suit.
57. Legitimacy of children of annulled marriages.
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59. Effect of judgment of nullity.
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61. Application for and issuance of license; fee.
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64. Violations of provisions of this chapter; punishment.
65. Declaration where there is no record.
66. To be acknowledged and recorded.
67. Either party may proceed to test validity of marriage.
68. Marriages contracted outside of Canal Zone.

Section 51. What constitutes marriage.—Marriage is a personal relation arising out of a civil contract, to which the consent of parties capable of making that contract is necessary. Consent alone will not constitute marriage; it must be followed by a solemnization authorized by this title.

52. Marriage; how proved.—Consent to marriage and solemnization thereof may be proved under the same general rules of evidence as facts are proved in other cases.

53. What marriages void without being so decreed.—(a) A marriage celebrated in the Canal Zone after December 29, 1926, shall be void, without being so decreed—

(1) If between persons related by consanguinity within the fourth degree, determined according to sections 636 to 640 of this title;

(2) If either party thereto has been previously married and such previous marriage has not been terminated by death, annulment, or a final decree of divorce; or

(3) If either party thereto is not present in person at the celebration of the marriage.

(b) A void marriage may, in addition, be declared by judicial decree, or be shown in any collateral proceeding, to have been void from the time of its celebration. (Dec. 29, 1926, ch. 19, sec. 8, 44 Stat. 927; Feb. 27, 1933, ch. 128, sec. 39, 47 Stat. 1128.)

CROSS-REFERENCE

Bigamous and incestuous marriages, see title 5, sections 411 to 414.

54. What marriages voidable.—(a) A marriage celebrated in the Canal Zone after December 29, 1926, shall be voidable—

(1) If either party thereto, at the time of the marriage, is an idiot or a lunatic;

(2) If the consent of either party thereto was procured by force or fraud;

(3) If either party thereto is, at the time of the marriage, incapable, from physical cause, of entering into the marriage state;

(4) If, because of the age of either party thereto, a written consent under section 60 of this title was required, and the marriage was celebrated without such consent; or

(5) If, at the time of the marriage, the male is under seventeen or the female is under fourteen years of age.

(b) A voidable marriage shall be held to be valid until it is annulled, by judicial decree, as of the date of such decree. (Dec. 29, 1926, ch. 19, sec. 9, 44 Stat. 927; Jan. 22, 1927, ch. 52, 44 Stat. 1023; Feb. 27, 1933, ch. 128, sec. 40, 47 Stat. 1128.)

55. Annulment of marriage celebrated elsewhere.—(a) A marriage celebrated outside of the Canal Zone may be declared void or may be annulled in the same manner and with the same effect as though it had been celebrated in the Canal Zone if the petitioner shall have resided in the Canal Zone within a period of thirty days before and a period of thirty days after the date of such marriage.

(b) A suit to have any such marriage celebrated outside the Canal Zone declared void or annulled may, in addition, be instituted by the district attorney of the Canal Zone in the name of the Government of the Canal Zone. (Dec. 29, 1926, ch. 19, sec. 10, 44 Stat. 928; Feb. 27, 1933, ch. 128, sec. 41, 47 Stat. 1129.)

56. Jurisdiction of annulment suit; who may institute suit.—(a) The district court shall have jurisdiction of a suit to have a marriage declared void or annulled.

(b) In the case of a male under twenty-one or a female under eighteen years of age such suit may be instituted through a next friend or by a parent or guardian. In the case of an idiot or a lunatic such suit may be instituted through a next friend.

(c) No suit to have a marriage annulled may be instituted by a person who, when fully capable of contracting marriage, entered into such marriage willfully and with knowledge of the circumstances rendering such marriage voidable. (Dec. 29, 1926, ch. 19, sec 11, 44 Stat. 928; Feb. 27, 1933, ch. 128, sec. 42, 47 Stat. 1129.)

57. Legitimacy of children of annulled marriages.—A judgment of nullity of marriage does not affect the legitimacy of children begotten before the judgment.

CROSS-REFERENCES

Divorce as affecting legitimacy of children, see section 118 of this title.
Legitimate children, who are, see sections 162 and 164 of this title.
Legitimacy of children of annulled marriage, see section 634 of this title.
Presumption of legitimacy of children, see sections 162 and 163 of this title.
Who may dispute legitimacy of child, see section 164 of this title.
Presumption of legitimacy of children, see title 4, sections 2006 and 2007.

58. Custody of children of annulled marriages.—The court must award the custody of the children of a marriage annulled on the ground of fraud or force to the innocent parent, and may also provide for their education and maintenance out of the property of the guilty party.

59. Effect of judgment of nullity.—A judgment of nullity of marriage rendered is conclusive only as against the parties to the action and those claiming under them.

CROSS-REFERENCE

Effect of decree of divorce, see section 117 of this title.

60. Capability of minors to contract marriage.—(a) Except as provided in subdivision (b), a male under twenty-one years of age or a female under eighteen years of age may not enter into a marriage in the Canal Zone.

(b) A male seventeen years of age or over and under twenty-one years of age, or a female fourteen years of age or over and under eighteen years of age, may enter into a marriage with the written consent of his or her natural or adopted parents, or of the parent having custody of such male or female if such parents are divorced, or of one of such parents if the other is dead, or has deserted his or her family, or has been adjudged insane or a lunatic, or of a legally appointed guardian if there is no parent qualified to give such consent. (Dec. 29, 1926, ch. 19, sec. 12, 44 Stat. 928; Feb. 27, 1933, ch. 128, sec. 46, 47 Stat. 1129.)

61. Application for and issuance of license; fee.—(a) No marriage shall be celebrated in the Canal Zone unless a license to marry has first been secured from the clerk of the division of the district court in which the marriage is to be celebrated: *Provided however*, That no marriage license shall be granted unless one of the parties thereto is an American citizen, or a resident of the Canal Zone: *And provided further*, That no marriage license shall be issued to a leper except upon a certificate of approval by the chief health officer of the Canal Zone. Such license when issued shall be accompanied by a marriage certificate to be filled in by the person celebrating the marriage.

(b) Such clerk shall, upon application therefor in accordance with subdivision (c), accompanied by the written consent when required by subdivision (b) of the next preceding section, issue a license to marry if it appears to the satisfaction of such clerk from the sworn statement of the persons desiring to marry, or, if required by such clerk, from the sworn statement of another, that no legal impediment to the marriage is known to exist.

(c) The application for a license to marry shall state—

(1) The name, address, age, color, and race of each of the persons to be married;

(2) The relationship, if any, of such persons, by consanguinity or affinity;

(3) If either of such persons has been previously married, then the date and place of each previous marriage, the name of each person to whom previously married, and the manner in which each such marriage has been terminated.

(d) The Governor shall prescribe the form of the application for a license to marry, of the license to marry, and of the marriage certificate.

(e) The clerk shall be paid a fee of $2 upon the issuance of a license to marry, and shall keep a record of all licenses issued and of all applications for licenses, together with any written consent of parents or a parent or guardian or the chief health officer accompanying the same. Such fee shall be disposed of in the same manner as other fees received by such clerk. (Dec. 29, 1926, ch. 19, sec. 13, 44 Stat. 928; Jan. 22, 1927, ch. 52, 44 Stat. 1023; Feb. 27, 1933, ch. 128, sec. 47, 47 Stat. 1130.)

62. Who may celebrate marriages; license to celebrate marriages.—(a) A marriage may be celebrated in the Canal Zone only by—

(1) A magistrate of the Canal Zone.

(2) A minister in good standing in any religious society or denomination who resides in the Canal Zone.

(3) A minister in good standing in any religious society or denomination who resides in the city of Colon or the city of Panama, in the Republic of Panama, if he has procured from the clerk of the district court for the Canal Zone a license authorizing such minister to celebrate marriages in the Canal Zone.

(b) The clerk shall issue the license provided for in paragraph (3) of subdivision (a) to any such minister if such clerk is satisfied that such minister is qualified to celebrate marriages in the Canal Zone. The clerk shall be paid a fee of $2 for issuing and recording any such license. Such fee shall be disposed of in the same manner as other fees received by such clerk. (Dec. 29, 1926, ch. 19, sec. 14, 44 Stat. 929; Feb. 27, 1933, ch. 128, sec. 48, 47 Stat. 1130.)

63. Certifying, signing, return, and recording of license; marriage certificate.—(a) The judicial officer or minister celebrating a marriage shall—

(1) Certify upon the marriage license that he celebrated such marriage, giving his official title and the time when and place where such marriage was celebrated;

(2) Cause two persons who witnessed the marriage to sign their names on the marriage license as witnesses, each giving his place of residence;

(3) At the time of the marriage, fill out and sign the marriage certificate accompanying the license and deliver it to one of the parties to the marriage; and

(4) Within thirty days after the date of the marriage, return such license, so certified and witnessed, to the clerk who issued such license.

(b) Upon return of a license as required in subdivision (a), the clerk shall file the same after making registry thereof in a book to be kept in his office for that purpose only, such registry to contain the Christian and surnames of the parties, the time of their marriage, and the name and title of the person who celebrated the marriage. (Dec. 29, 1926, ch. 19, sec. 15, 44 Stat. 929; Feb. 27, 1933, ch. 128, sec. 49, 47 Stat. 1131.)

64. Violations of provisions of this chapter; punishment.—(a) Any judicial officer or minister who is qualified to celebrate marriages in the Canal Zone and any clerk of court who violates any of the provisions of sections 61 to 63 of this title shall be punished by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both.

(b) Any person who knowingly makes or causes to be made any false oath as to any material matter for the purpose of procuring or aiding another to procure a marriage license shall be guilty of perjury and shall be punished by imprisonment in the penitentiary for not more than ten years.

(c) Any person who knowingly files or causes to be filed with the clerk a written consent, any signature to which is a forgery, shall be guilty of uttering a forged instrument and shall be punished by imprisonment in the penitentiary for not more than fourteen years.

(d) Any person who is not qualified to celebrate marriages in the Canal Zone under this chapter and who celebrates in the Canal Zone what purports to be a marriage ceremony shall be punished by imprisonment in the penitentiary for not more than three years. (Dec. 29, 1926, ch. 19, sec. 16, 44 Stat. 929; Jan. 22, 1927, ch. 52, 44 Stat. 1023; Feb. 27, 1933, ch. 128, sec. 50, 47 Stat. 1131.)

65. Declaration where there is no record.—If no record of the solemnization of a marriage heretofore contracted, be known to exist, the parties may join in a written declaration of such marriage, substantially showing:

(1) The names, ages, and residences of the parties.

(2) The fact of marriage.

(3) That no record of such marriage is known to exist. Such declaration must be subscribed by the parties and attested by at least three witnesses.

66. To be acknowledged and recorded.—Declarations of marriage must be acknowledged and recorded in the office of the clerk of the district court.

67. Either party may proceed to test validity of marriage.—If either party to any marriage denies the same, or refuses to join in a declaration thereof, the other may proceed, by action in the district court, to have the validity of the marriage determined and declared.

68. Marriages contracted outside of Canal Zone.—Except as otherwise provided in section 55 of this title, all marriages contracted outside of the Canal Zone, which would be valid by the laws of the country in which the same were contracted, are valid in the Canal Zone.

CHAPTER 5.—DIVORCE

Art.	Sec.	Art.	Sec.
1. Causes for divorce	71	3. General provisions	111
2. Causes for denying divorce	91		

CROSS-REFERENCES

Admission of defendant as evidence, see title 4, section 2155.
Cross complaint for divorce and proceedings thereon, see title 4, section 228.
Practice in general in suits for divorce, see title 4, section 181.
Process and service thereof in suits for divorce, see title 4, sections 181 and 182.
Statement of facts in divorce complaint, see title 4, section 203.
Time for appearance and answer, see title 4, section 183.
Venue of suits for divorce, see title 4, section 152.

ARTICLE 1.—CAUSES FOR DIVORCE

Sec.
71. Causes for divorce.
72. Adultery defined.
73. Desertion, what.
74. Desertion, how manifested.
75. In case of stratagem or fraud, who commits desertion.
76. In case of cruelty, where one party leaves other, who commits desertion.
77. Separation by consent not desertion.
78. Absence becomes desertion, when.

Sec.
79. Consent to separate revocable.
80. Desertion, how cured; effect of refusing condonation.
81. Wife must abide by husband's selection of home, or it is desertion on her part.
82. If place is unfit, and wife refuses to conform, it is desertion by husband.
83. Habitual intemperance, what.
84. Extreme cruelty, what.

Section 71. Causes for divorce.—In every case in which a marriage has been, or hereafter may be, contracted and solemnized between any two persons, and it shall be adjudged, in the manner hereinafter provided, (1) that either party has committed adultery subsequent to the marriage except as hereinafter provided; or (2) has willfully deserted and absented herself or himself from the husband or wife without any reasonable cause for a period of two years; or (3) has been guilty of willful neglect which shall consist of the willful failure of the husband to provide for his wife the necessaries of life, he having the ability to do so, or the willful failure to do so by reason of voluntary idleness, profligacy, or dissipation, in either case continued for a period of one year; or (4) has been guilty of habitual drunkenness for the space of two years; or (5) has attempted the life of the other by any means showing malice; or (6) has been guilty of extreme cruelty; or (7) has been subsequent to the marriage, convicted of felony, it shall be lawful for the injured party to obtain a divorce and dissolution of such marriage contract in the district court. (Sept. 21, 1922, ch. 370, sec. 12, 42 Stat. 1008; Feb. 27, 1933, ch. 128, sec. 60, 47 Stat. 1132.)

72. Adultery defined.—Adultery is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife.

73. Desertion, what.—Willful desertion is the voluntary separation of one of the married parties from the other with intent to desert.

74. Desertion, how manifested.—Persistent refusal to have reasonable matrimonial intercourse as husband and wife, when health or physical condition does not make such refusal reasonably necessary, or the refusal of either party to dwell in the same house with the other party, when there is no just cause for such refusal, is desertion.

75. In case of stratagem or fraud, who commits desertion.—When one party is induced, by the stratagem or fraud of the other party, to leave the family dwelling place, or to be absent, and during such absence the offending party departs with intent to desert the other, it is desertion by the party committing the stratagem or fraud, and not by the other.

76. In case of cruelty, where one party leaves other, who commits desertion.—Departure or absence of one party from the family dwelling place, caused by extreme cruelty or by threats of bodily harm from which danger would be reasonably apprehended from the other, is not desertion by the absent party, but it is desertion by the other party.

77. Separation by consent not desertion.—Separation by consent with or without the understanding that one of the parties will apply for a divorce, is not desertion.

CROSS-REFERENCES

Agreement for separation, see section 135 of this title.
Consent revocable, see section 79 of this title.

78. Absence becomes desertion, when.—Absence or separation, proper in itself, becomes desertion whenever the intent to desert is fixed during such absence or separation.

79. Consent to separate revocable.—Consent to a separation is a revocable act, and if one of the parties afterwards, in good faith, seeks a reconciliation and restoration, but the other refuses it, such refusal is desertion.

80. Desertion, how cured; effect of refusing condonation.—If one party deserts the other, and before the expiration of the statutory period required to make the desertion a cause of divorce, returns and offers in good faith to fulfill the marriage contract, and solicits condonation, the desertion is cured. If the other party refuse such offer and condonation, the refusal shall be deemed and treated as desertion by such party from the time of refusal.

81. Wife must abide by husband's selection of home, or it is desertion on her part.—The husband may choose any reasonable place or mode of living, and if the wife does not conform thereto, it is desertion.

82. If place is unfit, and wife refuses to conform, it is desertion by husband.—If the place or mode of living selected by the husband is unreasonable and grossly unfit, and the wife does not conform thereto, it is desertion on the part of the husband from the time her reasonable objections are made known to him.

83. Habitual intemperance, what.—Habitual drunkenness is that degree of intemperance from the use of intoxicating drinks which disqualifies the person a great portion of the time from properly attending to business, or which would reasonably inflict a course of great mental anguish upon the innocent party.

84. Extreme cruelty, what.—Extreme cruelty is the wrongful infliction of grievous bodily injury, or grievous mental suffering, upon the other by one party to the marriage.

ARTICLE 2.—CAUSES FOR DENYING DIVORCE

Sec.
91. Divorces denied, on showing what.
92. Connivance, what.
93. Corrupt consent, how manifested.
94. Collusion, what.
95. Condonation, what.
96. Requisites to condonation.
97. Condonation implies what.
98. Evidence of condonation.
99. Condonation; can only be made when.
100. Concealment of facts in certain cases makes condonation void.
101. Condonation, how revoked.
102. Recrimination, what.
103. Condonation; when to bar defense.
104. Divorce, when denied.
105. Lapse of time establishes certain presumptions.
106. Presumptions may be rebutted.
107. Limitation of time.
108. Residence of plaintiff in suit for divorce.

91. Divorces denied, on showing what.—Divorces must be denied upon showing:

1. Connivance;
2. Collusion;
3. Condonation;
4. Recrimination; or
5. Limitation and lapse of time.

Cross-References

Connivance, see section 92 of this title.
Collusion, see section 94 of this title.
Condonation, see sections 95 et seq., of this title.
Recrimination, see sections 102 et seq., of this title.
Limitation and lapse of time, see sections 104 et seq., of this title.

92. Connivance, what.—Connivance is the corrupt consent of one party to the commission of the acts of the other, constituting the cause of divorce.

93. Corrupt consent, how manifested.—Corrupt consent is manifested by passive permission, with intent to connive at or actively procure the commission of the acts complained of.

94. Collusion, what.—Collusion is an agreement between husband and wife that one of them shall commit, or appear to have committed, or to be represented in court as having committed, acts constituting a cause of divorce, for the purpose of enabling the other to obtain a divorce.

95. Condonation, what.—Condonation is the conditional forgiveness of a matrimonial offense constituting a cause of divorce.

Cross-References

Revoking condonation, see section 101 of this title.
Condonation of a recriminatory defense, see section 103 of this title.

96. Requisites to condonation.—The following requirements are necessary to condonation:

1. A knowledge on the part of the condoner of the facts constituting the cause of divorce;
2. Reconciliation and remission of the offense by the injured party;
3. Restoration of the offending party to all marital rights.

97. Condonation implies what.—Condonation implies a condition subsequent; that the forgiving party must be treated with conjugal kindness.

98. Evidence of condonation.—Where the cause of divorce consists of a course of offensive conduct, or arises, in cases of cruelty, from excessive acts of ill treatment which may, aggregately, constitute the offense, cohabitation, or passive endurance, or conjugal kindness, shall not be evidence of condonation of any of the acts constituting such cause, unless accompanied by an express agreement to condone.

99. Condonation; can only be made when.—In cases mentioned in the next preceding section, condonation can be made only after the cause of divorce has become complete, as to the acts complained of.

100. Concealment of facts in certain cases makes condonation void.—A fraudulent concealment by the condonee of facts constituting a different cause of divorce from the one condoned, and existing at the time of condonation, avoids such condonation.

101. Condonation, how revoked.—Condonation is revoked and the original cause of divorce revived:

1. When the condonee commits acts constituting a like or other cause of divorce; or
2. When the condonee is guilty of great conjugal unkindness, not amounting to a cause of divorce, but sufficiently habitual and gross to show that the conditions of condonation had not been accepted in good faith, or not fulfilled.

102. Recrimination, what.—Recrimination is a showing by the defendant of any cause of divorce against the plaintiff, in bar of the plaintiff's cause of divorce.

103. Condonation; when to bar defense.—Condonation of a cause of divorce, shown in the answer as a recriminatory defense, is a bar to such defense, unless the condonation be revoked, as provided in section 101 of this title, or two years have elapsed after the condonation, and before the accruing or completion of the cause of divorce against which the recrimination is shown.

104. Divorce, when denied.—A divorce must be denied:

(1) When the cause is adultery and the action is not commenced within two years after the commission of the act of adultery, or after its discovery by the injured party.

(2) When the cause is conviction of felony, and the action is not commenced before the expiration of two years after a pardon, or the termination of the period of sentence.

(3) In all other cases when there is an unreasonable lapse of time before the commencement of the action.

105. Lapse of time establishes certain presumptions.—Unreasonable lapse of time is such a delay in commencing the action as establishes the presumption that there has been connivance, collusion, or condonation of the offense, or full acquiescence in the same, with intent to continue the marriage relation notwithstanding the commission of such offense.

106. Presumptions may be rebutted.—The presumptions arising from lapse of time may be rebutted by showing reasonable grounds for the delay in commencing the action.

107. Limitation of time.—There are no limitations of time for commencing actions for divorce, except such as are contained in section 104 of this title.

108. Residence of plaintiff in suit for divorce.—(a) Any person having an official residence within the territorial limits of the Canal Zone, or who resides therein for the purpose of any occupation or employment, shall, during such residence, be deemed a resident of the Canal Zone for the purpose of this chapter and sections 152, 181 to 183, 203, 228, and 2155 of title 4, notwithstanding that he or she may not have acquired a permanent domicile within the Canal Zone.

(b) No plaintiff shall be entitled to a divorce who has not actually resided in the Canal Zone continuously during the whole year next before the filing of his or her complaint, which residence shall be duly proven by the plaintiff to the satisfaction of the court by at least two witnesses who are residents of the Canal Zone; and the plaintiff shall file with the complaint his or her own affidavit, in which he or she shall state the length of time plaintiff has resided in the Canal Zone, the place or places where he or she has resided for the last preceding year. and his or her office or occupation. (Sept. 21, 1922 ch. 370, sec. 13, 42 Stat. 1008; Feb. 27, 1933, ch. 128, sec. 91, 47 Stat. 1135.)

CROSS-REFERENCE

Venue in suit for divorce, see title 4, section 152.

ARTICLE 3.—GENERAL PROVISIONS

Sec.
111. Marriage, how dissolved.
112. Custody and care of children pending suit.
113. Alimony pending suit.
114. When bill is taken as confessed; default.
115. Maintenance by husband where divorce denied.
116. Action for permanent support of wife.
117. Effect of divorce in general.
118. Legitimacy of children.
119. Interlocutory order and appeal therefrom; final decree of divorce.
120. Alimony and maintenance; care, custody, and support of children.

Sec.
121. Court shall resort to what, in executing certain sections.
122. If wife has sufficient for her support, court may withhold allowance.
123. Community and separate property may be subjected to support and educate children.
124. Disposition of community property on divorce.
125. Same.
126. Compelling conveyance of property belonging to other spouse.
127. Resumption of maiden or former husband's name.
128. Decrees and orders prior to September 21, 1922, legalized.

111. Marriage, how dissolved.—Marriage is dissolved only:

(1) By the death of one of the parties; or

(2) By the judgment of a court of competent jurisdiction decreeing a divorce of the parties.

112. Custody and care of children pending suit.—The court may, on the application of either party, make such order concerning the custody and care of the minor children of the parties during the pendency of the suit as may be deemed expedient and for the benefit of the children. (Sept. 21, 1922, ch. 370, sec. 17, 42 Stat. 1010; Feb. 27, 1933, ch. 128, sec. 93, 47 Stat. 1136.)

113. Alimony pending suit.—In all cases of divorce the court may require the husband to pay to the wife or pay into court for her use during the pendency of the suit such sum or sums of money as may enable her to maintain or defend the suit; and in every suit for divorce, the wife, when it is just and equitable, shall be entitled to alimony during the pendency of the suit. And in case of appeal by the husband, the district court may grant and enforce the payment of such money for her defense and such equitable alimony during the pendency of the appeal as to the court shall seem reasonable and proper. (Sept. 21, 1922, ch. 370, sec. 20, 42 Stat. 1010; Feb. 27, 1933, ch. 128, sec. 94, 47 Stat. 1136.)

CROSS-REFERENCE

Property resorted to in executing this section, see section 121 of this title.

114. When bill is taken as confessed; default.—If the bill is taken as confessed, the court shall proceed to hear the cause by examination of witnesses in open court, and in no case of default shall the court grant a divorce unless the judge is satisfied that all proper means have been taken to notify the defendant of the pendency of the suit, and that the cause of divorce has been fully proven by competent evidence. Whenever the district judge is satisfied that the interests of the defendant require it, the court may order such additional notice as equity may seem to require. (Sept. 21, 1922, ch. 370, sec. 16, 42 Stat. 1010; Feb. 27, 1933, ch. 128, sec. 95, 47 Stat. 1136.)

115. Maintenance by husband where divorce denied.—Though judgment of divorce is denied, the court may, in an action for divorce, provide for the maintenance by the husband, of the wife and children of the marriage, or any of them.

CROSS-REFERENCES

Alimony generally, see section 120 of this title.
Property resorted to in executing this section, see section 121 of this title.

116. Action for permanent support of wife.—When the husband willfully deserts the wife or when the husband willfully fails to provide for the wife or when the wife has any cause of action for divorce as provided in section 71 of this title, she may, without applying for divorce, maintain in the district court an action against him for permanent support and maintenance of herself or of herself and children. During the pendency of such action the court may, in its discretion, require the husband to pay as alimony any money necessary for the prosecution of the action and for support and maintenance, and execution may issue therefor in the discretion of the court. The court, in granting the wife permanent support and maintenance of herself, or of herself and children, in any such action, shall make the same disposition of the community property as would have been made if the marriage had been dissolved by the decree of a court of competent jurisdiction. The final judgment in such action may be enforced by the court by such order or orders as in its discretion it may from time to time deem necessary, and such order or orders may be varied, altered, or revoked at the discretion of the court.

CROSS-REFERENCE

Property resorted to in executing this section, see section 121 of this title.

117. Effect of divorce in general.—The effect of a judgment decreeing a divorce is to restore the parties to the state of unmarried persons.

118. Legitimacy of children.—No divorce shall in anywise affect the legitimacy of the children of such marriage. (Sept. 21, 1922, ch. 370, sec. 18, 42 Stat. 1010; Feb. 27, 1933, ch. 128, sec. 99, 47 Stat. 1137.)

CROSS-REFERENCES

Issue of marriages dissolved by divorce legitimate, see section 634 of this title.

Legitimacy of children of annulled marriages, see section 57 of this title.

119. Interlocutory order and appeal therefrom; final decree of divorce.—(a) No final decree granting a divorce shall be entered until after the expiration of the period of six months from the date of the entry of an interlocutory order adjudging that a case for divorce has been proved, and every such interlocutory order shall expressly state that no divorce is granted by it. An appeal may be taken from any such interlocutory order in the same manner and within the same time as an appeal from a final decree of such court in any other proceeding.

(b) After the expiration of such period of six months, or if an appeal is taken and the case is pending at the time of the expiration of such period then after the final disposition of the case if determined in favor of the plaintiff, the court, upon application filed within thirty days after the expiration of such period or such final disposition, by the person in whose favor such interlocutory order was entered, shall enter a final decree granting a divorce. If no such application is made, the court may, on its own motion, within three months after the expiration of such thirty-day period, enter a final decree of divorce. No appeal may be taken from such final decree. (Sept. 21, 1922, ch. 370, sec. 21, 42 Stat. 1011; Dec. 29, 1926, ch. 19, sec. 5, 44 Stat. 926; Feb. 27, 1933, ch. 128, sec. 100, 47 Stat. 1137.)

120. Alimony and maintenance; care, custody, and support of children.—When a divorce shall be decreed the court may make such order touching the alimony and maintenance of the wife, the care, custody, and support of the children, or any of them as, from the circumstances of the parties and the nature of the case, shall be reasonable and just, and in case the wife be plaintiff, may order the defendant to give reasonable security for such alimony and maintenance, or may enforce the payment of such alimony and maintenance in any other manner consistent with the rules and practice of the court. And the court may, on application, from time to time make such alterations in the allowance of alimony and maintenance and the care, custody, and support of the children as shall appear reasonable and proper. In decreeing a divorce to the wife the court may order the husband to pay alimony in a gross sum or in installments as may seem best. And it may make such orders and enforce the same by attachment and secure the payment of such alimony, but judgment for alimony cannot be taken when the defendant is not personally served with summons or does not voluntarily appear. (Sept. 21, 1922, ch. 370, sec. 20, 42 Stat. 1010; Feb. 27, 1933, ch. 128, sec. 101, 47 Stat. 1137.)

CROSS-REFERENCE

Property resorted to in executing this section, see section 121 of this title.

121. Court shall resort to what, in executing certain sections.—In executing sections 113, 115, 116 and 120 of this title, the court must resort:
1. To the community property; then,
2. To the separate property of the husband.

122. If wife has sufficient for her support, court may withhold allowance.—When the wife has either a separate estate, or there is community property sufficient to give her alimony or a proper support, the court, in its discretion, may withhold any allowance to her out of the separate property of the husband.

123. Community and separate property may be subjected to support and educate children.—The community property and the separate property may be subjected to the support and education of the children in such proportions as the court deems just.

124. Disposition of community property on divorce.—In case of the dissolution of the marriage by the decree of a court of competent jurisdiction, the community property shall be assigned to the respective parties in such proportions as the court, from all the facts of the case, and the condition of the parties, may deem just.

125. Same.—The court, in rendering a decree of divorce, must make such order for the disposition of the community property, as in this chapter provided, and, whenever necessary for that purpose, may order a partition or sale of the property and a division or other disposition of the proceeds.

126. Compelling conveyance of property belonging to other spouse.—Whenever a divorce is granted, if it shall appear to the court that either party holds the title to property equitably belonging to the other, the court may compel conveyance thereof to the party entitled to the same, upon such terms as it shall deem equitable. (Sept. 21, 1922, ch. 370, sec. 20, 42 Stat. 1010; Feb. 27, 1933, ch. 128, sec. 107, 47 Stat. 1138.)

127. Resumption of maiden or former husband's name.—The court, upon granting to a woman a divorce from the bonds of matrimony, may allow her to resume her maiden name or the name of any former husband. (Sept. 21, 1922, ch. 370, sec. 20, 42 Stat. 1010; Feb. 27, 1933, ch. 128, sec. 108, 47 Stat. 1138.)

128. Decrees and orders prior to September 21, 1922, legalized.—All proceedings in the district court of the Canal Zone, wherein and whereby a decree of divorce was granted prior to September 21, 1922, upon personal service, or service by publication, and wherein other orders were made affecting the status of the parties or their children, are hereby legalized. (Sept. 21, 1922, ch. 370, sec. 22, 42 Stat. 1011; Feb. 27, 1933, ch. 128, sec. 109, 47 Stat. 1138.)

CHAPTER 6.—HUSBAND AND WIFE

Sec.
131. Mutual obligations of husband and wife.
132. Rights of husband, as head of family.
133. In other respects their interests separate.
134. Husband and wife may make contracts.
135. Husband and wife; property relations.
136. Consideration for agreement of separation.
137. May hold property how.
138. Separate property of the wife.
139. Separate property of the husband.
140. Property acquired after marriage.
141. Inventory of separate property of wife.
142. Filing inventory notice of wife's title.
143. Community property; contracts by wife.

Sec.
144. Earnings of wife not liable for debts of the husband.
145. Earnings of wife, when living separate, separate property.
146. Liability for debts of wife contracted before marriage.
147. Liability of separate property of wife.
148. Married woman's torts.
149. Management of community personal property.
150. Support of wife.
151. Husband not liable when abandoned by wife.
152. When wife must support husband.
153. Rights of husband and wife governed by what.
154. Marriage settlement contracts, how executed.
155. Minors may make marriage settlements.

Section 131. Mutual obligations of husband and wife.—Husband and wife contract towards each other obligations of mutual respect, fidelity, and support.

CROSS-REFERENCES

Abandonment or omission to provide for wife, as misdemeanor, see title 5, section 441.

Mother aiding in support of children, see section 166 of this title.

Husband's support of wife, see sections 150 and 151 of this title.

Wife's support of husband, see section 152 of this title.

132. Rights of husband, as head of family.—The husband is the head of the family. He may choose any reasonable place or mode of living, and the wife must conform thereto.

CROSS-REFERENCES

Parent changing residence of child, see section 183 of this title.

Husband's selection of dwelling place, etc., see section 81 of this title.

133. In other respects their interests separate.—Neither husband nor wife has any interest in the property of the other, but neither can be excluded from the other's dwelling.

134. Husband and wife may make contracts.—Either husband or wife may enter into any engagement or transaction with the other, or with any other person, respecting property, which either might if unmarried; subject, in transactions between themselves, to the general rules which control the actions of persons occupying confidential relations with each other, as defined by chapters 49 and 50 of this title on trusts.

135. Husband and wife; property relations.—A husband and wife cannot, by any contract with each other, alter their legal relations, except as to property, and except that they may agree, in writing, to an immediate separation, and may make provision for the support of either of them and of their children during such separation.

CROSS-REFERENCE

Marriage settlements, see sections 153 to 155 of this title.

136. Consideration for agreement of separation.—The mutual consent of the parties is a sufficient consideration for such an agreement as is mentioned in the next preceding section.

137. May hold property, how.—A husband and wife may hold property by joint interests, by interests in common, or as community property.

138. Separate property of the wife.—All property of the wife, owned by her before marriage, and that acquired afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, is her separate property. The wife may, without the consent of her husband, convey her separate property.

139. Separate property of the husband.—All property owned by the husband before marriage, and that acquired afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, is his separate property.

CROSS-REFERENCES

Community property, see section 280 of this title.
Community property liable for what debts, see section 143 of this title.
Husband's control over community property, see section 149 of this title.
Descent of community property, see sections 648 and 649 of this title.

140. Property acquired after marriage.—All other property acquired after marriage by either husband or wife, or both, including personal property wherever situated, heretofore or hereafter acquired while domiciled elsewhere, which would not have been the separate property of either if acquired while residing in the Canal Zone, is community property; but whenever personal property, or any interest therein or encumbrance thereon, is acquired by a married woman by an instrument in writing the presumption is that the same is her separate property, and if acquired by such married woman and her husband, or by her and any other person, the presumption is that she takes the part acquired by her, as an interest in common, unless a different intention is expressed in the instrument; and the presumptions in this section mentioned are conclusive in favor of a purchaser, encumbrancer, payor, or any other person dealing with such married woman, in good faith and for a valuable consideration.

CROSS-REFERENCE

See, also, section 280 of this title.

141. Inventory of separate property of wife.—A full and complete inventory of the separate personal property of the wife may be made out and signed by her, acknowledged or proved in the manner required by chapter 22 of this title, and recorded in the office of the registrar of property.

142. Filing inventory notice of wife's title.—The filing of the inventory in the office of the registrar of property is notice and prima facie evidence of the title of the wife.

143. Community property; contracts by wife.—The property of the community is not liable for the contracts of the wife, made after marriage, unless secured by mortgage thereof executed by the husband.

CROSS-REFERENCES

Debts of wife, see sections 146, 147, and 150 of this title.
Community property is liable for husband's debts, see section 149 of this title.
Necessaries furnished wife, see section 150 of this title.

144. Earnings of wife not liable for debts of the husband.—The earnings of the wife are not liable for the debts of the husband.

145. Earnings of wife, when living separate, separate property.—The earnings and accumulations of the wife, while she is living separate from her husband, are her separate property.

146. Liability for debts of wife contracted before marriage.—The separate property of the husband is not liable for the debts of the wife contracted before the marriage.

147. Liability of separate property of wife.—The separate property of the wife is liable for her own debts contracted before or after her marriage, but is not liable for her husband's debts: *Provided*, That the separate property of the wife is liable for the payment of debts contracted by the husband or wife for the necessaries of life furnished to them or either of them while they are living together: *Provided*, That the provisions of the foregoing proviso shall not apply to the separate property of the wife held by her at the time of her marriage or acquired by her by devise, succession, or gift, other than by gift from the husband, after marriage.

148. Married woman's torts.—For civil injuries committed by a married woman, damages may be recovered from her alone, and her husband shall not be liable therefor, except in cases where he would be jointly liable with her if the marriage did not exist.

149. Management of community personal property.—The husband has the management and control of the community personal property, with like absolute power of disposition, other than testamentary, as he has of his separate estate: *Provided*, *however*, That he cannot make a gift of such community personal property, or dispose of the same without a valuable consideration, or sell, convey, or encumber the furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the wife or minor children that is community, without the written consent of the wife.

CROSS-REFERENCES

Community property generally, see section 140 of this title.
Dissolution of the community by divorce, see section 125 of this title.
Testamentary control over community property, see sections 648 and 649 of this title.

150. Support of wife.—If the husband neglects to make adequate provision for the support of his wife, except in the cases mentioned in the section next following, any other person may, in good faith, supply her with articles necessary for her support, and recover the reasonable value thereof from the husband.

Cross-Reference

Abandonment or omission to provide for wife, as misdemeanor, see title 5, section 441.

151. Husband not liable when abandoned by wife.—A husband abandoned by his wife is not liable for her support until she offers to return, unless she was justified, by his misconduct, in abandoning him; nor is he liable for her support when she is living separate from him, by agreement, unless such support is stipulated in the agreement.

152. When wife must support husband.—The wife must support the husband when he has not deserted her, out of her separate property, when he has no separate property, and there is no community property, and he is unable, from infirmity, to support himself.

Cross-Reference

Mutual obligations of support, see section 131 of this title.

153. Rights of husband and wife governed by what.—The property rights of husband and wife are governed by this chapter, unless there is a marriage settlement containing stipulations contrary thereto.

154. Marriage settlement contracts, how executed.—All contracts for marriage settlements must be in writing; subscribed by the party to be charged or by his agent thereunto authorized in writing; and acknowledged or proved in the manner prescribed in chapter 22 of this title.

155. Minors may make marriage settlements.—A minor capable of contracting marriage may make a valid marriage settlement.

CHAPTER 7.—CHILDREN BY BIRTH

Sec.
161. Legitimacy of issue of wife cohabiting with husband.
162. Legitimacy of children born in wedlock.
163. Legitimacy of children born after dissolution of marriage.
164. Who may dispute the legitimacy of a child.
165. When child becomes legitimate.
166. Obligation of parents for the support and education of their children.
167. Custody of minors.
168. Husband and wife living separate, neither to have superior right to custody of children.
169. When husband or wife may bring action for the exclusive control of children; decree in such cases.
170. Custody of illegitimate child.
171. Allowance to parents.
172. Parent cannot control property of child.
173. Remedy for parental abuse.
174. When parental authority ceases.
175. Remedy when parent dies without providing for the support of his child.
176. Reciprocal duties of parents and children in maintaining each other.
177. When parent is liable for necessaries supplied to child.
178. When parent is not liable for support furnished his child.
179. Husband not bound for the support of his wife's children by a former marriage.
180. Compensation and support of adult child.
181. Parent may relinquish services and custody of child.
182. Wages of minors.
183. Right of parent to determine the residence of child.

Section 161. Legitimacy of issue of wife cohabiting with husband.—The issue of a wife cohabiting with her husband, who is not impotent, is indisputably presumed to be legitimate.

162. Legitimacy of children born in wedlock.—All children born in wedlock are presumed to be legitimate.

CROSS-REFERENCES

Father legitimating child by acknowledging it, see section 196 of this title.
Illegitimates, heirs to whom, see section 634 of this title.
Legitimacy of children of nullified marriage, see section 57 of this title.
Legitimating children by marriage of parents, see section 165 of this title.
Mother entitled to custody of illegitimate unmarried minor, see section 170 of this title.
Mother succeeds to estate of illegitimate, see section 635 of this title.
Rebutting presumption of legitimacy, see section 164 of this title.
Presumption of legitimacy, see title 4, sections 2006 and 2007.

163. Legitimacy of children born after dissolution of marriage.—All children of a woman who has been married, born within ten months after the dissolution of the marriage, are presumed to be legitimate children of that marriage.

164. Who may dispute the legitimacy of a child.—The presumption of legitimacy can be disputed only by the husband or wife, or the descendant of one or both of them. Illegitimacy, in such case, may be proved like any other fact.

165. When child becomes legitimate.—A child born before wedlock becomes legitimate by the subsequent marriage of its parents.

166. Obligation of parents for the support and education of their children.—The parent entitled to the custody of a child must give him support and education suitable to his circumstances: *Provided*, *That* if a child has earnings of his own sufficient therefor, the cost of his support and education may be taken therefrom. If the support and education which the father of a legitimate child is able to give are inadequate, the mother must assist him to the extent of her ability.

CROSS-REFERENCE

Abandonment or omission to provide for child, as misdemeanor, see title 5, section 441.

167. Custody of minors.—The father and mother of a legitimate unmarried minor child are equally entitled to its custody and services. If either the father or mother be dead or unable or refuse to take the custody or has abandoned his or her family, the other is entitled to its custody and services.

CROSS-REFERENCES

Action for control of child, see section 169 of this title.
Control over property of child, see section 172 of this title.
Relinquishing right to child's earnings, see section 181 of this title.

168. Husband and wife living separate, neither to have superior right to custody of children.—The husband and father, as such, has no rights superior to those of the wife and mother, in regard to the care, custody, education, and control of the children of the marriage, while such husband and wife live separate and apart from each other.

169. When husband or wife may bring action for the exclusive control of children; decree in such cases.—Without application for a divorce, the husband or the wife may bring an action for the exclusive control of the children of the marriage; and the district court may, during the pendency of such action, or at the final hearing thereof, or afterwards, make such order or decree in regard to the support, care, custody, education, and control of the children of the marriage, as may be just, and in accordance with the natural rights of the parents and the best interests of the children, and may at any time thereafter amend, vary, or modify such order or decree, as the natural rights and the interests of the parties, including the children, may require.

170. Custody of illegitimate child.—The mother of an illegitimate unmarried minor is entitled to its custody and services.

CROSS-REFERENCE

Inheritance from illegitimate child, see section 635 of this title.

171. Allowance to parent.—The district court may direct an allowance to be made to the parent of a child, out of its property, for its past or future support and education, on such conditions as may be proper, whenever such direction is for its benefit.

172. Parent cannot control property of child.—The parent, as such, has no control over the property of the child.

173. Remedy for parental abuse.—The abuse of parental authority is the subject of judicial cognizance in a civil action brought by the child, or by its relative within the third degree, or by the district attorney of the Canal Zone; and when the abuse is established, the child may be freed from the dominion of the parent, and the duty of support and education enforced.

CROSS-REFERENCES

Parental duty, see section 166 of this title.
Abuse or abandonment of child, as misdemeanor, see title 5, section 443.

174. When parental authority ceases.—The authority of a parent ceases:

1. Upon the appointment, by a court, of a guardian of the person of a child;
2. Upon the marriage of the child; or
3. Upon its attaining majority.

175. Remedy when parent dies without providing for the support of his child.—If a parent chargeable with the support of a child dies, leaving it a public charge, and leaving an estate sufficient for its support, the district attorney may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as any creditors against that estate, and against the heirs and next of kin of the parent.

176. Reciprocal duties of parents and children in maintaining each other.—It is the duty of the father, the mother, and the children of any poor person who is unable to maintain himself by work, to maintain such person to the extent of their ability. The promise of an adult child to pay for necessaries previously furnished to such parent is binding.

CROSS-REFERENCES

Mother supporting children, see section 166 of this title.
Wife supporting husband, see section 152 of this title.

177. When parent is liable for necessaries supplied to child.—If a parent neglects to provide articles necessary for his child who is under his charge, according to his circumstances, a third person may in good faith supply such necessaries, and recover the reasonable value thereof from the parent.

CROSS-REFERENCE

Infant liable on contract for necessaries, see section 28 of this title.

178. When parent is not liable for support furnished his child.—A parent is not bound to compensate the other parent, or a relative, for the voluntary support of his child, without an agreement for compensation, nor to compensate a stranger for the support of a child who has abandoned the parent without just cause.

179. Husband not bound for the support of his wife's children by a former marriage.—A husband is not bound to maintain his wife's children by a former husband; but if he receives them into his family and supports them, it is presumed that he does so as a parent, and, where such is the case, they are not liable to him for their support, nor he to them for their services.

180. Compensation and support of adult child.—Where a child, after attaining majority, continues to serve and to be supported by the parent, neither party is entitled to compensation, in the absence of an agreement therefor.

181. Parent may relinquish services and custody of child.—The parent, whether solvent or insolvent, may relinquish to the child the right of controlling him. Abandonment by the parent is presumptive evidence of such relinquishment.

182. Wages of minors.—The wages of a minor employed in service may be paid to him.

183. Right of parent to determine the residence of child.—A parent entitled to the custody of a child has a right to change his residence, subject to the power of the proper court to restrain a removal which would prejudice the rights or welfare of the child.

CROSS-REFERENCE

Residence, husband's right to change, see section 132 of this title.

CHAPTER 8.—CHILDREN BY ADOPTION

Sec.
191. How child may be adopted.
192. Adoption by stepfather.
193. Order of the court.
194. Effect of the order.
195. Consent to adoption of illegitimate child.
196. Adoption of illegitimate child by father.

Section 191. How child may be adopted.—A resident of the Canal Zone, not married, or a husband and wife jointly, may petition the district court for leave to adopt a minor child; but a written consent must be given for the adoption by the child, if of the age of fourteen years, and by each of his or her living parents who is not hopelessly insane or intemperate, or has not abandoned such child, or if there are no such parents, or if the parents are unknown, or have abandoned such child, or if they are hopelessly insane or intemperate, then by the legal guardian, or if there is no such guardian, then by a discreet and suitable person appointed by the court to act in the proceedings as the next friend of such child; but when such child is an inmate of a charitable or eleemosynary institution within the Canal Zone, and has been previously abandoned by its parents or guardians thereto, then the written consent of the head of such institution must be given: *Provided, nevertheless*, That nothing herein contained shall authorize a guardian to adopt his ward before the termination of the guardianship and the final settlement and approval of his accounts as guardian by the court.

192. Adoption by stepfather.—A resident of the Canal Zone, being the husband of any woman who has a minor child by a deceased husband, may petition the district court for leave to adopt such minor child and for a change in the name of such child; but the written consent must be given to the adoption by the child, if of the age of fourteen years, and by the mother of such child, if she is not hopelessly insame or intemperate, or if such mother is hopelessly insane or intemperate, then by the legal guardian of such child, or if there is no such guardian, then by a discreet and suitable person appointed by the court to act in the proceedings as the next friend of such child.

193. Order of the court.—When the foregoing provisions are complied with, if the court is satisfied with the ability of the petitioner to bring up and educate the child properly, having reference to the degree and condition of the child's parents and the fitness and propriety of such adoption, it shall make an order setting forth the facts and declaring that from that date said child, to all legal intents and purposes, is the child of the petitioner and that its name is thereby changed. The order shall be recorded in the records of the court.

194. Effect of the order.—The natural parents, except when such child is adopted under the provisions of section 192 of this title, shall, by such order, be divested of all legal rights and obligations in respect to the child, and the child shall be free from all legal obligations of obedience and maintenance with respect to them. Such child shall be to all intents and purposes the child and legal heir of the person adopting him or her, entitled to all the rights and privileges, and subject to all the obligations of a child of such person begotten in lawful wedlock.

195. Consent to adoption of illegitimate child.—If the child to be adopted is illegitimate, the consent of the father to adoption shall not be required.

196. Adoption of illegitimate child by father.—The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth. The foregoing provisions of this chapter do not apply to such an adoption.

CROSS-REFERENCE

Affecting inheritance, see section 634 of this title.

CHAPTER 9.—GUARDIAN AND WARD

Sec.
201. Guardian, what.
202. Ward, what.
203. Kinds of guardians.
204. General guardian, what.
205. Special guardian, what.
206. Guardian; appointment by will, and so forth.
207. Appointment by will or deed of guardian.
208. Rules for awarding custody of minor.

Sec.
209. Relation confidential.
210. Guardian under direction of court.
211. Death of a joint guardian.
212. Removal of guardian.
213. Guardian appointed by parent, how superseded.
214. Suspension of power of guardian.
215. Release by ward.
216. Guardian's discharge.

CROSS-REFERENCE

Judicial appointment of guardians, see Title 4, The Code of Civil Procedure.

Section 201. Guardian, what.—A guardian is a person appointed to take care of the person or property of another.

202. Ward, what.—The person over whom or over whose property a guardian is appointed, is called his ward.

203. Kinds of guardians.—Guardians are either:

1. General; or
2. Special.

CROSS-REFERENCES

Testamentary guardians, see section 207 of this title.
Guardians ad litem, see title 4, sections 127 and 128.

204. General guardian, what.—A general guardian is a guardian of the person or of all the property of the ward within the Canal Zone, or of both.

205. Special guardian, what.—Every other is a special guardian.

206. Guardian; appointment by will, and so forth.—A guardian of the person or estate, or of both, of a child born, or likely to be born, may be appointed by will or by deed, to take effect upon the death of the parent appointing:

1. If the child be legitimate, by the father, with the written consent of the mother; or by either parent, if the other be dead or incapable of consent.
2. If the child be illegitimate, by the mother.

CROSS-REFERENCE

Bond of testamentary guardian, see title 4, section 1731.

207. Appointment by will or deed of guardian.—A guardian of the person or estate, or of both, of an insane or incompetent person may be appointed by will or deed, to take effect upon the death of the person appointing:

1. If the insane or incompetent person be unmarried, or be a person whose marriage has been annulled or dissolved by death or divorce, by the father, with the written consent of the mother, or by either parent if the other be dead or incapable of consent.

2. If the insane or incompetent person be married and a person whose marriage has not been annulled or dissolved by divorce, then by the spouse.

208. Rules for awarding custody of minor.—In awarding the custody of a minor, or in appointing a general guardian, the court or officer is to be guided by the following considerations:

1. By what appears to be for the best interest of the child in respect to its temporal and its mental and moral welfare; and if the child is of a sufficient age to form an intelligent preference, the court may consider that preference in determining the question;

2. As between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but other things being equal, if the child is of tender years, it should be given to the mother; if it is of an age to require education and preparation for labor and business, then to the father;

3. Of two persons equally entitled to the custody in other respects, preference is to be given as follows:

(1) To a parent;

(2) To one who was indicated by the wishes of a deceased parent;

(3) To one who already stands in the position of a trustee of a fund to be applied to the child's support;

(4) To a relative.

4. Any parent who knowingly or willfully abandons, or having the ability so to do, fails to maintain his minor child under the age of fourteen years, forfeits the guardianship of such child.

CROSS-REFERENCE

Respective rights of parents, see section 167 of this title.

209. Relation confidential.—The relation of guardian and ward is confidential, and is subject to the provisions of chapters 49 and 50 of this title on trusts.

210. Guardian under direction of court.—In the management and disposition of the person or property committed to him, a guardian may be regulated and controlled by the court.

211. Death of a joint guardian.—On the death of one of two or more joint guardians, the power continues to the survivor until a further appointment is made by the court.

CROSS-REFERENCE

Survival of trust, see section 1602 of this title.

212. Removal of guardian.—A guardian may be removed by the district court for any of the following causes:

1. For abuse of his trust;
2. For continued failure to perform his duties;
3. For incapacity to perform his duties;
4. For gross immorality;

5. For having an interest adverse to the faithful performance of his duties;

6. For removal from the Canal Zone;

7. In the case of a guardian of the property, for insolvency; or

8. When it is no longer proper that the ward should be under guardianship.

Cross-Reference

Removal of guardian, see title 4, sections 1693 and 1812.

213. Guardian appointed by parent, how superseded.—The power of a guardian appointed by a parent is superseded:

1. By his removal, as provided by the next preceding section;
2. By the solemnized marriage of the ward; or
3. By the ward's attaining majority.

Cross-Reference

Marriage of ward terminates guardianship, see title 4, section 1813.

214. Suspension of power of guardian.—The power of a guardian appointed by a court, is suspended only:

1. By order of the court;
2. If the appointment was made solely because of the ward's minority, by his attaining majority; or
3. The guardianship over the person of the ward, by the marriage of the ward.

Cross-Reference

Marriage of ward terminates guardianship, see title 4, section 1813.

215. Release by ward.—After a ward has come to his majority, he may settle accounts with his guardian, and give him a release, which is valid if obtained fairly and without undue influence.

216. Guardian's discharge.—A guardian appointed by a court is not entitled to his discharge until one year after the ward's majority.

Cross-References

Discharge of guardian, see title 4, section 1813.
Resignation of guardian, see title 4, section 1812.

CHAPTER 10.—FOREIGN CORPORATIONS GENERALLY

Sec.
221. Application for license to do business; accompanying papers; process agent; filing fee.
222. Insurance companies to file additional documents and deposits.
223. Insurance companies to file statement and pay license tax.
224. Issuance of license.
225. Annual license fee.
226. Transacting business without license, how punished; contracts void.
227. Same; loss of benefit of limitation laws.
228. License under chapter 11 sufficient.
229. "Corporation" includes joint stock companies.
230. Revocation of license.

Cross-References

In respect to corporations engaged in the sale of securities, see sections 241 to 249 of this title.

Fraudulent insolvencies by corporations and other frauds in their management, see title 5, sections 751 to 764.

Section 221. Application for license to do business; accompanying papers; process agent; filing fee.—No corporation organized under the laws of any State or Territory of the United States or of any foreign country shall do business in the Canal Zone or maintain an office therein until it shall have filed with the executive secretary of the Panama Canal:

(a) An application for a license setting forth the name of the corporation, the names of its officers and directors, and a statement showing the general nature of the business in which it desires to engage in the Canal Zone;

(b) A certified copy of its articles of incorporation, or of its charter, or of the statute or statutes or legislative or executive or governmental acts creating it, in cases where it has been created by charter or statute or legislative or executive or governmental act, duly certified by the Secretary of State or other officer authorized by law to certify such copy;

(c) An affidavit sworn to by any authorized officer of such corporation which shall state the amount of its authorized capital stock at or within sixty days prior to such filing;

(d) Every corporation must, at the time of filing its application, file in the office of the executive secretary a designation of some person residing within the Canal Zone and the place of business or residence of such person upon whom process issued by authority of or under any law of the Canal Zone may be served. With such designation shall be submitted a certified copy of the minutes of the board of directors of such corporation authorizing such designation. Process may be served on the person so designated, or, in the event that such person cannot be found at the place designated or in the event that no such person is designated, then on the executive secretary of the Panama Canal, or his successor in office, and such service shall be a valid service on such corporation. When the executive secretary shall have been served with process as provided herein he shall without delay communicate the same to the corporation concerned at its last known address and no default judgment shall be entered against such corporation in any action in which process is served on the executive secretary until at least 60 days after the date of such service;

(e) Corporations licensed under the provisions of this chapter shall also be required to file with the executive secretary any amendment of or change in any of the provisions of its original articles of incorporation;

(f) With the application for license there shall also be submitted the sum of $10, which amount shall cover the filing fee and the annual license fee for the remainder of the calendar year during which the license is issued.

CROSS-REFERENCE

Service of summons upon foreign corporation doing business in Canal Zone, see also title 4, section 166.

222. Insurance companies to file additional documents and deposit.—In addition to the requirements hereinbefore prescribed, insurance companies organized under the laws of any State or Territory of the United States or of any foreign country shall be required to file the following documents:

(a) A certificate of the Commissioner of Insurance or other duly authorized official, showing that the company is authorized to transact business in the State or country under whose laws the company is organized;

(b) A duly certified copy of the last annual statement of the insurance company to the Commissioner of Insurance or other duly authorized official in the State or country where the company is organized;

(c) A deposit with the executive secretary or his successor in office of $10,000 in cash or current marketable securities, which shall be held in trust by the executive secretary for the account of the company, to satisfy any judgment that may be rendered against the company under any insurance policies that it may issue.

223. Insurance companies to file statement and pay license tax.—Insurance companies licensed under this chapter shall file with the executive secretary between January 1 and March 1 of each year a verified statement showing the business transacted within the Canal Zone by the company during the previous calendar year and a duly certified copy of its annual report to the insurance commissioner of the State, Territory, or country in which the company is organized. Such insurance companies shall pay before March 1 of each year, in lieu of all other taxes save the annual fee provided for in section 225 of this title, a license tax equal to 1½ per centum of its net premium receipts in the Canal Zone for the calendar year preceding.

224. Issuance of license.—Upon compliance with the foregoing conditions, the Governor of the Panama Canal, if he is satisfied that the business desired to be transacted is proper, legitimate, permissible under the laws of the Canal Zone, and not in conflict with the policy of administering the Canal Zone as an adjunct of the Panama Canal, may issue a license to do business in the Canal Zone.

225. Annual license fee.—The right to continue to do business after the period for which the license is issued shall be contingent upon the payment of a license fee of $10, payable in advance, on January 1 of each year.

226. Transacting business without license, how punished; contracts void.—Any corporation which does business in the Canal Zone without having complied with the provisions of this chapter shall be subject to a fine of not more than $500, and any agent or person acting for such corporation, unless it shall have complied with the provisions of this chapter, shall, upon conviction, be punished as for a misdemeanor. In addition to this penalty, every contract made by or on behalf of any such foreign corporation affecting the liability thereof or relating to property within the Canal Zone shall be held void on its behalf and on behalf of its assigns, but shall be enforceable against it or them.

227. Same; loss of benefit of limitation laws.—Corporations doing business in the Canal Zone which fail to comply with the provisions of this chapter shall not be entitled to the benefit of the laws of the Canal Zone limiting the time for the commencement of civil actions.

228. License under chapter 11 sufficient.—No corporation licensed under the provisions of chapter 11 of this title shall be required to comply with the provisions of this chapter.

229. "Corporation" includes joint stock companies.—The term "corporation" as used in this chapter shall include joint stock companies.

230. Revocation of license.—The Governor of the Panama Canal is authorized to revoke any license issued hereunder if, upon examination, he shall be satisfied that the operations of the corporation are conducted in an illegal manner, or in a manner contrary to public policy or to the policy of administering the Canal Zone as an adjunct of the Panama Canal.

CHAPTER 11.—SECURITIES SALES LAW

Sec.
241. Permit to sell securities.
242. Designation of process agent.
243. Examination of application; issuance and revocation of permit.
244. Certificate of agent or broker.
245. Examination of application; issuance and revocation of permit.
246. Report on sale of securities.
247. Fees.
248. Penalty for violation.
249. Definitions.

CROSS-REFERENCES

For provisions of the Securities Act of 1933, wherein the term "territory" is defined to include the Canal Zone, see U.S. Code, title 15, sections 77a to 77mm (appendix, p. 893).

Foreign corporations generally, see sections 221 to 230 of this title.

Fraudulent insolvencies by corporations and other frauds in their management, see title 5, sections 751 to 764.

Section 241. Permit to sell securities.—No company shall sell, or offer for sale, negotiate for the sale of, or take subscriptions for any security of its own issue until it shall have first applied for and secured from the Governor of the Panama Canal a permit authorizing it to do so. Such application shall be in writing and shall be verified. In such application the applicant shall set forth the names and addresses of its officers, the location of its principal office, the name of its Canal Zone representative, an itemized account of its financial condition, the amount and character of its assets and liabilities, a detailed statement of the plan upon which it proposes to transact business, a copy of any prospectus or advertisement, or other description of such securities, then prepared by or for it for distribution or publication, and such additional information concerning the company, its condition and affairs, as the Governor may require. If the applicant is a partnership or an unincorporated association or joint stock company, it shall file with its application a copy of its articles of partnership or association, and all other papers pertaining to its organization. If the applicant is a corporation, it shall file with its application a copy of all minutes of any proceedings of its directors or stockholders or members relating to or affecting the issue of such securities, a copy of its articles of incorporation and of its bylaws and of any amendments thereto, and also a certificate, executed by the proper officer of the State, Territory, or country in which such corporation is organized, dated not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in such State, Territory, or country.

242. Designation of process agent.—Every company, at the time of filing its application, shall file in the office of the executive secretary a designation of some person residing within the Canal Zone and stating the place of business or residence of such person upon whom process issued by authority of or under any law of the Canal Zone may be served. With such designation shall be submitted a certified copy of the minutes of the board of directors of such company authorizing such designation. Process may be served on the person so designated, or, in the event that such person cannot be found at the place designated or in the event that no person is designated, then on the executive secretary of the Panama Canal, or his successor in office, and such service shall be a valid service on such corporation. When the executive secretary shall have been served with process as provided herein he shall without delay communicate the same to the company concerned at its last known address and no default judgment shall be entered against such corporation in any action in which process is served on the executive secretary until at least sixty days after the date of such service.

243. Examination of application; issuance and revocation of permit.—Upon the filing of such application, it shall be the duty of the Governor to examine it, and the other papers and documents filed therewith, or cause the same to be examined, and he may, if he deems it advisable, make or have made a detailed examination, audit, and investigation of the applicant and its affairs. If he finds that the proposed plan of business of the applicant is not unfair, unjust, inequitable, or contrary to the policy of administering the Canal Zone as an adjunct of the Panama Canal, that it intends to transact its business fairly and honestly, and that the securities that it proposes to issue and the methods to be used by it in issuing or disposing of them are not such as, in his opinion, will work a fraud upon the purchaser thereof, the Governor may issue to the applicant a permit authorizing it to issue and dispose of securities, as therein provided, in the Canal Zone. Each such permit shall expire on the thirty-first day of December next following its issuance, unless sooner revoked. Otherwise, he shall deny the application and refuse such permit and notify the applicant in writing of his decision. Every permit shall recite that the issuance thereof is permissive only and does not constitute a recommendation or indorsement of the securities permitted to be sold. The Governor may impose such conditions as he may deem necessary to the issue of such securities, and shall have the power to establish such rules and regulations as may be reasonable or necessary to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in such permit, and may, from time to time for cause, amend, alter, or revoke any permit issued by him, or temporarily suspend the rights of the applicant under such permit.

244. Certificate of agent or broker.—No person or company shall act as an agent or broker, other than for a company holding a permit under the next preceding section, until such person or company shall have first applied for and secured from the Governor a certificate, then in effect, authorizing such person or company so to do. Each such certificate shall expire on the thirty-first day of December next after its issuance, unless sooner revoked. To secure such certificate, the applicant shall make and file in the office of the Governor an application therefor in writing, verified by or in behalf of the applicant. In such application the applicant shall set forth, in addition to such other information as may be required by the Governor:

1. The name and address of the applicant, and, if it be a corporation, association, or joint-stock company, the name and address of each of its managing officers and agents, and, if it be a partnership, the name and address of each of the partners;
2. A succinct statement of facts showing that the applicant, and its managing officers and agents, if it be a corporation, or members, if it be a partnership, have a good business reputation;
3. If the applicant is a broker, the general plan and character of the business of the applicant.

If the applicant is a corporation or association it shall file with its application a designation of a process agent, as provided in section 242 of this title.

245. Examination of application; issuance and revocation of permit.—The Governor shall examine such application, or cause the same to be examined, and shall make such further investigation of the applicant and its affairs as he shall deem advisable. If, from such examination, the Governor shall be satisfied that the business reputation of the applicant and of its officers or members, if any, is good, and that the conduct of such business will not conflict with the policy of administering the Canal Zone as an adjunct of the Panama Canal, he may issue such certificate. Otherwise he shall refuse the same and deny the application and notify the applicant of his decision. The Governor may at any time revoke any broker's or agent's certificate issued by him if he shall find that the holder thereof is of bad business repute, or had violated any provision of this chapter, or has engaged in, or is about to engage in, any fraudulent transaction, or if he shall find that the conduct of such business conflicts with good policy in the administration of the Canal Zone.

246. Report on sale of securities.—Every company or broker authorized under this chapter to sell securities shall thereafter, at such times as they may be required by the executive secretary, make and file in the office of the executive secretary a report setting forth, in such form as the executive secretary may prescribe, the securities sold by it under the authority of any permit issued by him, the proceeds derived therefrom, the disposition of such proceeds, and such other information concerning its property, officers, or affairs, relating to or affecting the value of such securities, as the executive secretary may require.

247. Fees.—Each company or broker shall, with its application for a permit or certificate, remit the sum of $10, which amount shall cover the filing fee and the annual license fee for the remainder of the calendar year during which the permit or certificate is issued, but no part of such fee shall be returned if the application is disapproved. The annual fee for renewal of a permit or certificate issued hereunder shall be $10, payable in advance on or before January first of each year.

248. Penalty for violation.—Any company, agent, or broker, which shall directly or indirectly issue or cause to be issued, or solicit the sale of any security contrary to the provisions of this chapter, shall be subject to a fine of not more than $500. In addition to this penalty, every contract made by or on behalf of any such company, agent, or broker affecting the liability thereof shall be void on its behalf and on behalf of its assigns, but shall be enforceable against it or them.

249. Definitions.—The following words have in this chapter the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "company" includes all corporations, associations, joint-stock companies, and partnerships;

2. The word "security" includes all stocks, bonds, or other evidences of property or interest in any company;

3. The word "agent" means and includes every person or company employed or appointed by a company or broker who shall, within the Canal Zone, either as an employee or otherwise, for a compensation, sell, offer for sale, negotiate for the sale of, or take a subscription for the sale of any security;

4. The word "broker" includes every person or company, other than an agent, who shall for a commission in the Canal Zone engage either wholly or in part in the business of selling, offering for sale, negotiating for the sale of, or otherwise dealing in any security or securities issued by others, or of underwriting any issue of securities, or of purchasing such securities for the purpose of reselling them or of offering them for sale to the public.

CHAPTER 12.—NATURE OF PROPERTY

Sec.
251. Property, what.
252. In what property may exist.
253. Wild animals.
254. Real and personal.
Sec.
255. Real property.
256. Land.
257. Fixtures.
258. Personal property.

Section 251. Property, what.—The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others. In this title, the thing of which there may be ownership is called property.

Cross-References

Personal property, see sections 258 and 361 et seq., of this title.
Real property, see section 255 of this title.

252. In what property may exist.—There may be ownership of all inanimate things which are capable of appropriation or of manual delivery; of all domestic animals; of all obligations; of such products of labor or skill as the composition of an author, the goodwill of a business, trade marks and signs, and of rights created or granted by statute.

Cross-Reference

Products of the mind, see sections 381 et seq., of this title.

253. Wild animals.—Animals wild by nature are the subjects of ownership, while living, only when on the land of the person claiming them, or when tamed, or taken and held in possession, or disabled and immediately pursued.

254. Real and personal.—Property is either:
1. Real or immovable; or
2. Personal or movable.

255. Real property.—Real or immovable property consists of:
1. Land;
2. That which is affixed to land;
3. That which is incidental or appurtenant to land;
4. That which is immovable by law.

CROSS-REFERENCES

Land defined, see section 256 of this title.
Fixtures, see section 1044 of this title.

256. Land.—Land is the solid material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock, or other substance.

257. Fixtures.—A thing is deemed to be affixed to land when it is attached to it by roots, as in the case of trees, vines, or shrubs; or imbedded in it, as in the case of walls; or permanently resting upon it, as in the case of buildings; or permanently attached to what is thus permanent, as by means of cement, plaster, nails, bolts, or screws.

CROSS-REFERENCE

Ownership of fixtures, see section 411 of this title.

258. Personal property.—Every kind of property that is not real is personal.

CROSS-REFERENCES

Accession to personal property, see sections 413 to 421 of this title.
Choses in action, see sections 371 and 372 of this title.
Confusion of goods, see sections 413 to 421 of this title.
Law governing, see section 361 of this title.
Modes of acquisition of, see section 401 of this title.
Products of mind, see sections 381 to 386 of this title.

CHAPTER 13.—OWNERS OF PROPERTY

Sec.
261. Owners.
262. Who may own property.
263. Aliens inheriting must claim within 5 years.

Section 261. Owners.—All property has an owner, whether that owner is the government, and the property public, or the owner an individual, and the property private.

262. Who may own property.—Any person, whether citizen or alien, may take, hold, and dispose of property within the Canal Zone.

CROSS-REFERENCE

Aliens, right to inherit property, see section 651 of this title.

263. Aliens inheriting must claim within 5 years.—If a nonresident alien takes by succession, he must appear and claim the property within five years from the time of succession, or be barred. The property in such case is disposed of as provided in sections 1181 to 1185 of title 4.

CROSS-REFERENCES

When and how aliens may inherit, see section 651 of this title.
Escheat of property, see title 4, sections 1181 et seq.

CHAPTER 14.—MODIFICATIONS OF OWNERSHIP

Art.	Sec.	Art.	Sec.
1. Interests in property	271	3. Restraints upon alienation	311
2. Conditions of ownership	301	4. Accumulations	321

ARTICLE 1.—INTERESTS IN PROPERTY

Sec.
271. Ownership, absolute or qualified.
272. When absolute.
273. When qualified.
274. Several ownership, what.
275. Ownership of several persons.
276. Joint interest, what.
277. Partnership interest, what.
278. Interest in common, what.
279. What interests are in common.
280. Community property.
281. Interests as to time.
282. Present interest, what.
283. Future interest, what.
284. Perpetual interest, what.
285. Limited interest, what.
286. Kinds of future interests.
287. Vested interests.
288. Contingent interests.
289. Two or more future interests.
290. Certain future interests not to be void.
291. Posthumous children.
292. Qualities of expectant estates.
293. Same.
294. What future interests are recognized.

Section 271. Ownership, absolute or qualified.—The ownership of property is either:

1. Absolute; or
2. Qualified.

272. When absolute.—The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws.

CROSS-REFERENCES

Ownership in what property may exist, see sections 252 and 253 of this title.
Ownership, termination of, see section 341 of this title.
Perpetual interest defined, see section 284 of this title.

273. When qualified.—The ownership of property is qualified:

1. When it is shared with one or more persons;
2. When the time of enjoyment is deferred or limited;
3. When the use is restricted.

274. Several ownership, what.—The ownership of property by a single person is designated as a sole or several ownership.

275. Ownership of several persons.—The ownership of property by several persons is either:

1. Of joint interests;
2. Of partnership interests;
3. Of interests in common;
4. Of community interest of husband and wife.

CROSS-REFERENCES

Community property, see section 280 of this title.
Interests in common, see sections 278 and 279 of this title.
Joint interest, see section 271 of this title.
Partnership interests, see section 277 of this title.

276. Joint interest, what.—A joint interest is one owned by several persons in equal shares, by a title created by a single will or transfer, when expressly declared in the will or transfer to be a joint tenancy, or when granted or devised to executors or trustees as joint tenants.

277. Partnership interest, what.—A partnership interest is one owned by several persons, in partnership, for partnership purposes.

278. Interest in common, what.—An interest in common is one owned by several persons, not in joint ownership or partnership.

CROSS-REFERENCES

See, also, sections 276 and 279 of this title.

Husband and wife as owners in common, see section 137 of this title.

Legacy to two or more makes them owners in common, see section 601 of this title.

279. What interests are in common.—Every interest created in favor of several persons in their own right is an interest in common, unless acquired by them in partnership, for partnership purposes, or unless declared in its creation to be a joint interest, as provided in section 276 of this title, or unless acquired as community property.

CROSS-REFERENCE

Interests in common, see section 278 of this title.

280. Community property.—Community property is property acquired by husband and wife, or either, during marriage, when not acquired as the separate property of either or as joint interests or interests in common.

CROSS-REFERENCE

See also section 140 of this title.

281. Interests as to time.—In respect to the time of enjoyment, an interest in property is either:

1. Present or future; and
2. Perpetual or limited.

282. Present interest, what.—A present interest entitles the owner to the immediate possession of the property.

283. Future interest, what.—A future interest entitles the owner to the possession of the property only at a future period.

CROSS-REFERENCES

Accumulations as future interests, see sections 321 et seq., and 332 of this title.

Conditions upon enjoyment of estates, see section 301 of this title.

Terminating future interests, see sections 341 et seq., of this title.

284. Perpetual interest, what.—A perpetual interest has a duration equal to that of the property.

285. Limited interest, what.—A limited interest has a duration less than that of the property.

286. Kinds of future interests.—A future interest is either:
1. Vested; or
2. Contingent.

287. Vested interests.—A future interest is vested when there is a person in being who would have a right, defeasible or indefeasible, to the immediate possession of the property, upon the ceasing of the intermediate or precedent interest.

288. Contingent interests.—A future interest is contingent, whilst the person in whom, or the event upon which, it is limited to take effect remains uncertain.

289. Two or more future interests.—Two or more future interests may be created to take effect in the alternative, so that if the first in order fails to vest, the next in succession shall be substituted for it, and take effect accordingly.

290. Certain future interests not to be void.—A future interest is not void merely because of the improbability of the contingency on which it is limited to take effect.

291. Posthumous children.—When a future interest is limited to successors, heirs, issue or children, posthumous children are entitled to take in the same manner as if living at the death of their parent.

CROSS-REFERENCES

Future interests defeated by birth of posthumous child, see section 341 of this title.

Succession by posthumous children, see sections 554, 590, and 650 of this title.

292. Qualities of expectant estates.—Future interests pass by succession, will, and transfer, in the same manner as present interests.

293. Same.—A mere possibility, such as the expectancy of an heir apparent, is not to be deemed an interest of any kind.

CROSS-REFERENCE

Mere possibility cannot be transferred, see section 442 of this title.

294. What future interests are recognized.—No future interest in property is recognized by the law, except such as is defined in this title.

ARTICLE 2.—CONDITIONS OF OWNERSHIP

Sec.
301. Fixing the time of enjoyment.
302. Conditions.
303. Certain conditions precedent void.
304. Conditions restraining marriage void.
305. Conditions restraining alienation void.

301. Fixing the time of enjoyment.—The time when the enjoyment of property is to begin or end may be determined by computation, or be made to depend on events. In the latter case, the enjoyment is said to be upon condition.

CROSS-REFERENCE

Conditional legacies, see section 596 of this title.

302. Conditions.—Conditions are precedent or subsequent. The former fix the beginning, the latter the ending, of the right.

CROSS-REFERENCES

Conditional obligations, see sections 691 to 699 of this title.
Conditions concurrent, see section 694 of this title.
Conditions precedent, what are, see sections 597 and 693 of this title.
Conditions subsequent, what are, see sections 600 and 695 of this title.

303. Certain conditions precedent void.—If a condition precedent requires the performance of an act wrong of itself, the instrument containing it is so far void, and the right cannot exist. If it requires the performance of an act not wrong of itself, but otherwise unlawful, the instrument takes effect and the condition is void.

CROSS-REFERENCES

Conditions precedent, see section 693 of this title.
Unlawful conditions void, see section 698 of this title.

304. Conditions restraining marriage void.—Conditions imposing restraints upon marriage, except upon the marriage of a minor, are void; but this does not affect limitations where the intent was not to forbid marriage, but only to give the use until marriage.

CROSS-REFERENCE

Contracts in restraint of marriage, see section 937 of this title.

305. Conditions restraining alienation void.—Conditions restraining alienation, when repugnant to the interest created, are void.

CROSS-REFERENCE

Restraints upon alienation, see section 311 of this title.

ARTICLE 3.—RESTRAINTS UPON ALIENATION

Sec.
311. Restraints upon alienation.
312. Future interests void, which suspend power of alienation.

311. Restraints upon alienation.—The absolute power of alienation cannot be suspended, by any limitation or condition whatever, for a longer period than as follows:

1. During the continuance of the lives of persons in being at the creation of the limitation or condition; or

2. For a period not to exceed twenty-five years from the time of the creation of the suspension.

312. Future interests void, which suspend power of alienation.—Every future interest is void in its creation which, by any possibility, may suspend the absolute power of alienation for a longer period than is prescribed in this chapter. Such power of alienation is suspended when there are no persons in being by whom an absolute interest in possession can be conveyed.

ARTICLE 4.—ACCUMULATIONS

Sec.
321. Dispositions of income.
322. Accumulations, when void.
323. Accumulation of income.
324. Other directions, when void in part.
325. Application of income to support, etc., of minor.

321. Dispositions of income.—Dispositions of the income of property to accrue and to be received at any time subsequent to the execution of the instrument creating such disposition, are governed by the rules prescribed in this chapter in relation to future interests.

322. Accumulations, when void.—All directions for the accumulation of the income of property, except such as are allowed by this chapter, are void.

323. Accumulation of income.—An accumulation of the income of property, for the benefit of one or more persons, may be directed by any will or transfer in writing sufficient to pass the property out of which the fund is to arise, as follows:

1. If such accumulation is directed to commence on the creation of the interest out of which the income is to arise, it must be made for the benefit of one or more minors then in being, and terminate at the expiration of their minority; or
2. If such accumulation is directed to commence at any time subsequent to the creation of the interest out of which the income is to arise, it must commence within the time in this chapter permitted for the vesting of future interests, and during the minority of the beneficiaries, and terminate at the expiration of such minority.

CROSS-REFERENCES

Annuities and bequest of income, see sections 611 (3) and 618 of this title.
Ownership of undisposed accumulations, see section 332 of this title.

324. Other directions, when void in part.—If in either of the cases mentioned in the next preceding section the direction for an accumulation is for a longer term than during the minority of the beneficiaries, the direction only, whether separable or not from other provisions of the instrument, is void as respects the time beyond such minority.

325. Application of income to support, etc., of minor.—When a minor for whose benefit an accumulation has been directed is destitute of other sufficient means of support and education, the proper court, upon application, may direct a suitable sum to be applied thereto out of the fund.

CROSS-REFERENCE

Maintenance of ward out of own estate, see title 4, sections 1773 and 1775.

CHAPTER 15.—RIGHTS OF OWNERS

Sec.
331. Increase of property.
332. In certain cases, who entitled to income of property.

Section 331. Increase of property.—The owner of a thing owns also all its products and accessions.

CROSS-REFERENCES

Accessions to personal property, see sections 413 et seq., of this title.
Fixtures, see section 411 of this title.

332. In certain cases, who entitled to income of property.—When, in consequence of a valid limitation of a future interest, there is a suspension of the power of alienation or of the ownership during the continuation of which the income is undisposed of, and no valid direction for its accumulation is given, such income belongs to the persons presumptively entitled to the next eventual interest.

CHAPTER 16.—TERMINATION OF OWNERSHIP

Sec.
341. Future interests, when defeated.
342. Same.
343. Future interests, when not defeated.
344. Same.

Section 341. Future interests, when defeated.—A future interest, depending on the contingency of the death of any person without successors, heirs, issue, or children, is defeated by the birth of a posthumous child of such person, capable of taking by succession.

Cross-Reference

Posthumous children, see section 291 of this title.

342. Same.—A future interest may be defeated in any manner or by any act or means which the party creating such interest provided for or authorized in the creation thereof; nor is a future interest, thus liable to be defeated, to be on that ground adjudged void in its creation.

343. Future interests, when not defeated.—No future interest can be defeated or barred by any alienation or other act of the owner of the intermediate or precedent interest, nor by any destruction of such precedent interest by forfeiture, surrender, merger, or otherwise, except as provided by the section next following, or where a forfeiture is imposed by statute as a penalty for the violation thereof.

344. Same.—No future interest, valid in its creation, is defeated by the determination of the precedent interest before the happening of the contingency on which the future interest is limited to take effect; but should such contingency afterwards happen, the future interest takes effect in the same manner and to the same extent as if the precedent interest had continued to the same period.

CHAPTER 17.—GENERAL DEFINITIONS AFFECTING PROPERTY

Sec.
351. Income, what.
352. Time of creation, what.

Section 351. Income, what.—The income of property, as the term is used in chapters 12 to 16 of this title, includes the rents and profits of real property, the interest on money, dividends upon stock, and other produce of personal property.

352. Time of creation, what.—The delivery of the grant, where a limitation, condition, or future interest is created by grant, and the death of the testator, where it is created by will, is to be deemed the time of the creation of the limitation, condition, or interest within the meaning of chapters 12 to 16 of this title.

CHAPTER 18.—PERSONAL PROPERTY AND PARTICULAR KINDS THEREOF

Art. Sec.
1. Personal property in general 361
2. Things in action 371
3. Products of the mind 381
4. Patents, trade-marks, and copyrights 391

ARTICLE 1.—PERSONAL PROPERTY IN GENERAL

Section 361. By what law governed.—If there is no law to the contrary, in the place where personal property is situated, it is deemed to follow the person of its owner, and is governed by the law of his domicile.

ARTICLE 2.—THINGS IN ACTION

Sec.
371. Things in action defined.
372. Transfer and survivorship.

371. Things in action defined.—A thing in action is a right to recover money or other personal property by a judicial proceeding.

372. Transfer and survivorship.—A thing in action arising out of the violation of a right of property, or out of an obligation. may be transferred by the owner. Upon the death of the owner it passes to his personal representatives, except where, in the cases provided in Title 4, The Code of Civil Procedure, it passes to his devisees or successor in office.

Cross-References

Assignment of debt secured by mortgage carries security, see section 2246 of this title.

Assignment of chose in action does not prejudice defense, see title 4, section 123.

Burden of obligation not transferable, see section 711 of this title.

Counterclaim not barred by assignment, see title 4, section 225.

Insurance policy, transfer of, see section 2033 of this title.

Literary property is assignable, see section 383 of this title.

Mere possibility cannot be transferred, see section 442 of this title.

Nonnegotiable written contract for payment of money or property transferable by indorsement, see section 713 of this title.

Obligation defined, see section 661 of this title.

Property of any kind may be transferred, see section 441 of this title.

Right arising out of obligation transferable, see section 712 of this title.

Right of repossession can be transferred, see section 443 of this title.

Suing on chose in action, see title 4, sections 122 to 124, 1522 and 1523.

Transfer may be oral, when, see section 451 of this title.

ARTICLE 3.—PRODUCTS OF THE MIND

Sec.
381. How far the subject of ownership.
382. Joint authorship.
383. Transfer.
384. Effect of publication.
385. Subsequent inventor, author, and so forth.
386. Private writings.

381. How far the subject of ownership.—The author of any product of the mind, whether it is an invention, or a composition in letters or art, or a design, with or without delineation, or other graphical representation, has an exclusive ownership therein, and in the representation or expression thereof, which continues so long as the product and the representations or expressions thereof made by him remain in his possession.

382. Joint authorship.—Unless otherwise agreed, a product of the mind in the production of which several persons are jointly concerned, is owned by them as follows:
1. If the product is single, in equal proportions;
2. If it is not single, in proportion to the contribution of each.

383. Transfer.—The owner of any product of the mind, or of any representation or expression thereof, may transfer his property in the same.

384. Effect of publication.—If the owner of a product of the mind intentionally makes it public, a copy or reproduction may be made public by any person, without responsibility to the owner, subject to the law of copyright.

CROSS-REFERENCE

Copyright law, see section 391 of this title.

385. Subsequent inventor, author, and so forth.—If the owner of a product of the mind does not make it public, any other person subsequently and originally producing the same thing has the same right therein as the prior author, which is exclusive to the same extent against all persons except the prior author, or those claiming under him.

386. Private writings.—Letters and other private communications in writing belong to the person to whom they are addressed and delivered; but they cannot be published against the will of the writer, except by authority of law.

ARTICLE 4.—PATENTS, TRADE-MARKS, AND COPYRIGHTS

391. Patent, trade-mark, and copyright laws extended to Canal Zone.—The patent, trade-mark, and copyright laws of the United States shall have the same force and effect in the Canal Zone as in continental United States, and the district court is given the same jurisdiction in actions arising under such laws as is exercised by United States district courts.

CROSS-REFERENCES

Products of the mind, see section 381 of this title.
For patent laws of United States, see U.S. Code, title 35.
For trade-mark laws of United States, see U.S. Code, title 15, chapter 3.
For copyright laws of United States, see U.S. Code, title 17.

CHAPTER 19.—MODES IN WHICH PROPERTY MAY BE ACQUIRED

Section 401. Property, how acquired.—Property is acquired by:
1. Accession;
2. Transfer;
3. Will; or
4. Succession.

CHAPTER 20.—ACCESSION

Sec.
411. Fixtures.
412. What fixtures tenant may remove.
413. Accession by uniting several things.
414. Principal part, what.
415. Same.
416. Uniting materials and workmanship.
417. Inseparable materials.
418. Materials of several owners.
419. Willful trespassers.
420. Owner may elect between the thing and its value.
421. Wrongdoer liable in damages.

Section 411. Fixtures.—When a person affixes his property to the land of another, without an agreement permitting him to remove it. the thing affixed, except as provided in the section next following, belongs to the owner of the land, unless he chooses to require the former to remove it.

CROSS-REFERENCE

Fixtures, see section 257 of this title.

412. What fixtures tenant may remove.—A tenant may remove from the demised premises, any time during the continuance of his term, anything affixed thereto for the purposes of trade, manufacture, ornament, or domestic use, if the removal can be effected without injury to the premises, unless the thing has, by the manner in which it is affixed, become an integral part of the premises.

413. Accession by uniting several things.—When things belonging to different owners have been united so as to form a single thing, and cannot be separated without injury, the whole belongs to the owner of the thing which forms the principal part; who must, however, reimburse the value of the residue to the other owner, or surrender the whole to him.

414. Principal part, what.—That part is to be deemed the principal to which the other has been united only for the use, ornament, or completion of the former, unless the latter is the more valuable, and has been united without the knowledge of its owner, who may, in the latter case, require it to be separated and returned to him, although some injury should result to the thing to which it has been united.

415. Same.—If neither part can be considered the principal, within the rule prescribed by the next preceding section, the more valuable, or, if the values are nearly equal, the more considerable in bulk, is to be deemed the principal part.

416. Uniting materials and workmanship.—If one makes a thing from materials belonging to another, the latter may claim the thing on reimbursing the value of the workmanship, unless the value of the workmanship exceeds the value of the materials, in which case the thing belongs to the maker, on reimbursing the value of the materials.

417. Inseparable materials.—Where one has made use of materials which in part belong to him and in part to another, in order to form a thing of a new description, without having destroyed any of the materials, but in such a way that they cannot be separated without inconvenience, the thing formed is common to both proprietors; in proportion, as respects the one, of the materials belonging to him, and as respects the other, of the materials belonging to him and the price of his workmanship.

418. Materials of several owners.—When a thing has been formed by the admixture of several materials of different owners, and neither can be considered the principal substance, an owner without whose consent the admixture was made may require a separation, if the materials can be separated without inconvenience. If they cannot be thus separated, the owners acquire the thing in common, in proportion to the quantity, quality, and value of their materials; but if the materials of one were far superior to those of the others, both in quantity and value, he may claim the thing on reimbursing to the others the value of their materials.

419. Willful trespassers.—The foregoing sections of this chapter are not applicable to cases in which one willfully uses the materials of another without his consent; but, in such cases, the product belongs to the owner of the material, if its identity can be traced.

420. Owner may elect between the thing and its value.—In all cases where one whose material has been used without his knowledge, in order to form a product of a different description, can claim an interest in such product, he has an option to demand either restitution of his material in kind, in the same quantity, weight, measure, and quality, or the value thereof; or where he is entitled to the product, the value thereof in place of the product.

421. Wrongdoer liable in damages.—One who wrongfully employs materials belonging to another is liable to him in damages, as well as under the foregoing provisions of this chapter.

CHAPTER 21.—TRANSFER OF PROPERTY

Art.	Sec.
1. Definition of transfer	431
2. What may be transferred	441
3. Mode of transfer	451
4. Interpretation of grants	461
5. Effect of transfer	471
6. Gifts	481

ARTICLE 1.—DEFINITION OF TRANSFER

Sec.
431. Transfer, what.
432. Voluntary transfer.

Section 431. Transfer, what.—Transfer is an act of the parties, or of the law, by which the title to property is conveyed from one living person to another.

Cross-References

Transfer, see sections 432 and 454 of this title.
Transfer in writing is called a grant, see section 454 of this title.

432. Voluntary transfer.—A voluntary transfer is an executed contract, subject to all rules of law concerning contracts in general; except that a consideration is not necessary to its validity.

Cross-References

Gifts, see sections 481 et seq., of this title.
Transfer, see sections 431 and 454 of this title.

ARTICLE 2.—WHAT MAY BE TRANSFERRED

Sec.
441. What may be transferred.
442. Possibility.
443. Right of repossession can be transferred.

441. What may be transferred.—Property of any kind may be transferred, except as otherwise provided by the section next following.

442. Possibility.—A mere possibility, not coupled with an interest, cannot be transferred.

CROSS-REFERENCE

Mere possibility not deemed an interest, see section 293 of this title.

443. Right of repossession can be transferred.—A right of repossession for breach of condition subsequent, can be transferred.

ARTICLE 3.—MODE OF TRANSFER

Sec.
451. When oral.
452. When must be in writing.
453. Transfer by sale, etc.
454. Grant, what.
455. Delivery necessary.
456. Date.
457. Delivery to grantee is necessarily absolute.
458. Delivery in escrow.
459. Constructive delivery.

451. When oral.—A transfer may be made without writing, in every case in which a writing is not expressly required by statute.

CROSS-REFERENCES

What contracts must be in writing, see sections 886 and 984 of this title.

Fraudulent instruments and transfers, see sections 2761 and 2762 of this title.

452. When must be in writing.—An interest in an existing trust can be transferred only by operation of law, or by a written instrument, subscribed by the person making the transfer, or by his agent.

453. Transfer by sale, etc.—The mode of transferring other personal property by sale is regulated by chapter 34 of this title.

454. Grant, what.—A transfer in writing is called a grant or bill of sale. The term "grant", in this and sections 455 to 472 of this title, includes both these instruments.

CROSS-REFERENCES

Construction of grants, see sections 461 et seq., of this title.

Transfer, see sections 431 and 432 of this title.

455. Delivery necessary.—A grant takes effect, so as to vest the interest intended to be transferred, only upon its delivery by the grantor.

CROSS-REFERENCES

Constructive delivery, see section 459 of this title.

Contract in writing takes effect only from delivery, see section 888 of this title.

456. Date.—A grant duly executed is presumed to have been delivered at its date.

457. Delivery to grantee is necessarily absolute.—A grant cannot be delivered to the grantee conditionally. Delivery to him, or to his agent as such, is necessarily absolute, and the instrument takes effect thereupon, discharged of any condition on which the delivery was made.

458. Delivery in escrow.—A grant may be deposited by the grantor with a third person, to be delivered on performance of a condition, and, on delivery by the depositary, it will take effect. While in the possession of the third person, and subject to condition, it is called an escrow.

459. Constructive delivery.—Though a grant be not actually delivered into the possession of the grantee, it is yet to be deemed constructively delivered in the following cases:

1. Where the instrument is, by the agreement of the parties at the time of execution, understood to be delivered, and under such circumstances that the grantee is entitled to immediate delivery; or
2. Where it is delivered to a stranger for the benefit of the grantee, and his assent is shown, or may be presumed.

ARTICLE 4.—INTERPRETATION OF GRANTS

Sec.
461. Grants, how interpreted.
462. Limitations, how controlled.
463. Recitals, when resorted to.
464. Interpretation against grantor.
465. Irreconcilable provisions.
466. Meaning of "heirs" and "issue", in certain remainders.

461. Grants, how interpreted.—Grants are to be interpreted in like manner with contracts in general, except so far as otherwise provided in this article.

CROSS-REFERENCES

Interpretation of contracts, see sections 901, 902 and 907 of this title.
Word "grant" includes bill of sale, see section 454 of this title.

462. Limitations, how controlled.—A clear and distinct limitation in a grant is not controlled by other words less clear and distinct.

463. Recitals, when resorted to.—If the operative words of a grant are doubtful, recourse may be had to its recitals to assist the construction.

CROSS-REFERENCE

Interpretation of doubtful words, see section 920 of this title.

464. Interpretation against grantor.—A grant is to be interpreted in favor of the grantee, except that a reservation in any grant, and every grant by a public officer or body, as such, to a private party, is to be interpreted in favor of the grantor.

465. Irreconcilable provisions.—If several parts of a grant are are absolutely irreconcilable, the former part prevails.

466. Meaning of "heirs" and "issue", in certain remainders.—Where a future interest is limited by a grant to take effect on the death of any person without heirs, or heirs of his body, or without issue, or in equivalent words, such words must be taken to mean successors, or issue living at the death of the person named as ancestor.

CROSS-REFERENCE

"Heirs" and "issue", interpretation of, see section 586 of this title.

ARTICLE 5.—EFFECT OF TRANSFER

Sec.
471. What title passes.
472. Incidents.

471. What title passes.—A transfer vests in the transferee all the actual title to the thing transferred which the transferrer then has, unless a different intention is expressed or is necessarily implied.

472. Incidents.—The transfer of a thing transfers also all its incidents, unless expressly excepted; but the transfer of an incident to a thing does not transfer the thing itself.

Cross-Reference

What passes, see section 2862 of this title.

ARTICLE 6.—GIFTS

Sec.
481. Gifts defined.
482. Gift, how made.
483. Gift not revocable.
484. Gift in view of death, what.
485. When gift presumed to be in view of death.
486. Revocation of gift in view of death.
487. Effect of will upon gift.
488. When treated as legacy.

481. Gifts defined.—A gift is a transfer of personal property, made voluntarily, and without consideration.

Cross-References

Gift as fraud on creditors, see sections 2761 et seq., of this title.
Voluntary transfers, see sections 432 and 2761 of this title.

482. Gift, how made.—A verbal gift is not valid, unless the means of obtaining possession and control of the thing are given, nor, if it is capable of delivery, unless there is an actual or symbolical delivery of the thing to the donee.

483. Gift not revocable.—A gift, other than a gift in view of death, cannot be revoked by the giver.

Cross-Reference

Revoking gifts mortis causa, see section 486 of this title.

484. Gift in view of death, what.—A gift in view of death is one which is made in contemplation, fear, or peril of death, and with intent that it shall take effect only in case of the death of the giver.

Cross-Reference

Revocation, see section 486 of this title.

485. When gift presumed to be in view of death.—A gift made during the last illness of the giver, or under circumstances which would naturally impress him with an expectation of speedy death, is presumed to be a gift in view of death.

486. Revocation of gift in view of death.—A gift in view of death may be revoked by the giver at any time, and is revoked by his recovery from the illness, or escape from the peril, under the presence of which it was made, or by the occurrence of any event which would operate as a revocation of a will made at the same time, but when the gift has been delivered to the donee, the rights of a bona fide purchaser from the donee before the revocation, shall not be affected by the revocation.

CROSS-REFERENCE

Gift inter vivos not revocable, see section 483 of this title.

487. Effect of will upon gift.—A gift in view of death is not affected by a previous will; nor by a subsequent will, unless it expresses an intention to revoke the gift.

488. When treated as legacy.—A gift in view of death must be treated as a legacy, so far as relates only to the creditors of the giver.

CHAPTER 22.—PROOF AND ACKNOWLEDGMENT OF INSTRUMENTS

Sec.

491. By whom acknowledgments may be taken in Canal Zone.
492. By whom taken outside of Canal Zone.
493. By whom taken in foreign country.
494. Officers empowered to issue proper certificates.
495. Requisites for acknowledgment.
496. Officer must indorse certificate.
497. General form of certificate.
498. Form of acknowledgment by corporation.
499. Form of certificate of acknowledgment by attorney in fact.
500. Officers must affix their signatures.
501. Proof of execution, how made.
502. Witness must be personally known to officer.
503. Witness must prove, what.
504. Handwriting may be proved, when.
505. Evidence of handwriting must prove, what.
506. Certificate of proof.
507. Officers authorized to do certain things.
508. When instrument is improperly certified, party may have action to correct error.
509. In certain cases, parties interested may obtain judgment of proof of an instrument.
510. Effect of judgment in such action.
511. Instruments heretofore made to be governed by then existing laws.
512. Deeds, etc., affecting land in District of Columbia or any Territory of United States.

Section 491. By whom acknowledgments may be taken in Canal Zone.—The proof or acknowledgment of any instrument required by law to be proved or acknowledged may be made before the district judge, the clerk of the district court, a magistrate, or before any notary public of the Canal Zone.

492. By whom taken outside of Canal Zone.—The proof or acknowledgment of an instrument may be made outside of the Canal Zone, but within the United States, and within the jurisdiction of the officer, before the judge of any court of record or the clerk thereof or before any notary public within any State, Territory, District, or possession of the United States.

493. By whom taken in foreign country.—If an instrument is one executed in a foreign country, the same may be acknowledged before any diplomatic or consular officer or commercial agent of the United States accredited to such country or before any officer of such foreign country authorized to take acknowledgments, the signature and official character of such officer to be certified by a diplomatic, consular, or commercial official of the United States.

494. Officers empowered to issue proper certificates.—The officers authorized to take acknowledgments under sections 491 to 493 of this title are empowered to issue proper certificates of the same.

495. Requisites for acknowledgment.—The acknowledgment of an instrument must not be taken unless the officer taking it knows or has satisfactory evidence, on the oath or affirmation of a credible witness, that the person making such acknowledgment is the individual who is described in and who executed the instrument; or, if executed by a corporation, that the person making such acknowledgment is the president or secretary of such corporation, or other person who executed it on its behalf.

496. Officer must indorse certificate.—An officer taking the acknowledgment of an instrument must indorse thereon or attach thereto a certificate substantially in the forms hereinafter prescribed.

497. General form of certificate.—The certificate of acknowledgment, unless it is otherwise in this chapter provided, must be substantially in the following form: " United States of America, Canal Zone, *ss*. On this ——— day of ———, in the year ———, before me (here insert name and quality of the officer), personally appeared ———, known to me (or proved to me on the oath of ———) to be the person whose name is subscribed to the within instrument, and acknowledged that he (she or they) executed the same ": *Provided*, *however*, That any acknowledgment taken without the Canal Zone in accordance with the laws of the place where the acknowledgment is made, shall be sufficient in the Canal Zone: *And Provided further*, That the certificate of the clerk of a court of record of the county or district where such acknowledgment is taken, that the officer certifying to the same is authorized by law so to do, and that the signature of the said officer to such certificate is his true and genuine signature, and that such acknowledgment is taken in accordance with the laws of the place where the same is made, shall be prima facie evidence of the facts stated in the certificate of said clerk.

498. Form of acknowledgment by corporation.—The certificate of acknowledgment of an instrument executed by a corporation must be substantially in the following form:

UNITED STATES OF AMERICA,
Canal Zone, *ss:*

On this ——— day of ———, in the year ———, before me (here insert the name and quality of the officer), personally appeared ———, known to me (or proved to me on the oath of ———) to be the president (or the secretary) of the corporation that executed the within instrument (where, however, the instrument is executed in behalf of the corporation by some one other than the president or secretary insert: known to me (or proved to me on the oath of ———) to be the person who executed the within instrument on behalf of the corporation therein named and acknowledged to me that such corporation executed the same).

499. Form of certificate of acknowledgment by attorney in fact.—The certificate of acknowledgment by an attorney in fact must be substantially in the following form:

UNITED STATES OF AMERICA,
Canal Zone, *ss:*

On this ——— day of ———, in the year ———, before me (here insert the name and quality of the officer), personally appeared ———, known to me (or proved to me on the oath of ———) to be the person whose name is subscribed to the within instrument as the attorney in fact of ———, and acknowledged to me that he subscribed the name of ——— thereto as principal, and his own name as attorney in fact.

500. Officers must affix their signatures.—Officers taking and certifying acknowledgments, or proof of instruments for record, must authenticate their certificates by affixing thereto their signatures, followed by the names of their offices; also, their seals of office, if by the laws of the State or country where the acknowledgment or proof is taken, or by authority of which they are acting, they are required to have official seals.

501. Proof of execution, how made.—Proof of the execution of an instrument, when not acknowledged, may be made either:

1. By the party executing it, or either of them;
2. By a subscribing witness; or
3. By other witnesses, in cases mentioned in section 504 of this title.

502. Witness must be personally known to officer.—If by a subscribing witness, such witness must be personally known to the officer taking the proof to be the person whose name is subscribed to the instrument as a witness, or must be proved to be such by the oath of a credible witness.

503. Witness must prove, what.—The subscribing witness must prove that the person whose name is subscribed to the instrument as a party is the person described in it, and that such person executed it, and that the witness subscribed his name thereto as a witness.

504. Handwriting may be proved, when.—The execution of an instrument may be established by proof of the handwriting of the party and of a subscribing witness, if there is one, in the following cases:

1. When the parties and all the subscribing witnesses are dead;
2. When the parties and all the subscribing witnesses are nonresidents of the Canal Zone;
3. When the place of their residence is unknown to the party desiring the proof, and cannot be ascertained by the exercise of due diligence;
4. When the subscribing witness conceals himself, or cannot be found by the officer by the exercise of due diligence in attempting to serve the subpena or attachment; or
5. In case of the continued failure or refusal of the witness to testify, for the space of one hour, after his appearance.

505. Evidence of handwriting must prove, what.—The evidence taken under the next preceding section must satisfactorily prove to the officer the following facts:

(1) The existence of one or more of the conditions mentioned therein;

(2) That the witness testifying knew the person whose name purports to be subscribed to the instrument as a party, and is well acquainted with his signature, and that it is genuine;

(3) That the witness testifying personally knew the person who subscribed the instrument as a witness, and is well acquainted with his signature, and that it is genuine; and

(4) The place of residence of the witness.

506. Certificate of proof.—An officer taking proof of the execution of any instrument must, in his certificate endorsed thereon or attached thereto, set forth all the matters required by law to be done or known by him, or proved, before him on the proceeding, together with the names of all the witnesses examined before him, their places of residence respectively, and the substance of their testimony.

507. Officers authorized to do certain things.—Officers authorized to take the proof of instruments are authorized in such proceedings:

1. To administer oaths or affirmations, as prescribed in section 2171 of title 4;
2. To employ and swear interpreters;
3. To issue subpenas, as prescribed in section 2042 of title 4;
4. To punish for contempt, as prescribed in sections 2046, 2048, and 2049 of title 4.

The civil damages and forfeiture to the party aggrieved are prescribed in section 2047 of title 4.

CROSS-REFERENCE

Damages for disobeying subpena, see title 4, section 2047.

508. When instrument is improperly certified, party may have action to correct error.—When the acknowledgment or proof of the execution of an instrument is properly made, but defectively certified, any party interested may have an action in the district court to obtain a judgment correcting the certificate.

509. In certain cases, parties interested may obtain judgment of proof of an instrument.—Any person interested under an instrument entitled to be proved for record may institute an action in the district court against the proper parties to obtain a judgment proving such instrument.

510. Effect of judgment in such action.—A certified copy of the judgment in a proceeding instituted under section 508 or 509 of this title, showing the proof of the instrument, and attached thereto, entitles such instrument to record, with like effect as if acknowledged.

511. Instruments heretofore made to be governed by then existing laws.—The legality of the execution, acknowledgment, proof, form, or record of any instrument made before this title goes into effect, executed, acknowledged, proved, or recorded is not affected by anything contained in this chapter, but depends for its validity and legality upon the laws in force when the act was performed.

512. Deeds, etc., affecting land in District of Columbia or any Territory of United States.—Deeds and other instruments affecting land situate in the District of Columbia or any Territory of the United States may be acknowledged in the Canal Zone before any notary public or judge, appointed therein by proper authority, or by any officer therein who has ex officio the powers of a notary public: *Provided*, That the certificate by such notary in the Canal Zone shall be accompanied by the certificate of the Governor or acting governor to the effect that the notary taking said acknowledgment was in fact the officer he purported to be; and any deeds or other instruments affecting lands so situate, so acknowledged since January 1, 1905, and accompanied by such certificate shall have the same effect as such deeds or other instruments hereafter so acknowledged and certified. (June 28, 1906, ch. 3585, 34 Stat. 552 [U.S. Code, title 48, sec. 1358]; Feb. 27, 1933, ch. 128, sec. 310, 47 Stat. 1167.)

CHAPTER 23.—EXECUTION AND REVOCATION OF WILLS

Sec.
521. Who may make a will.
522. Will, or part thereof, procured by fraud.
523. Will of married woman.
524. What may pass by will.
525. Written will, how to be executed.
526. Definition of an olographic will.
527. Witness to add residence.
528. Mutual will.
529. Competency of subscribing witness.
530. Gifts to subscribing witnesses void; creditors competent witnesses.
531. Subscribing witness entitled to his share by succession.
532. Will made outside of Canal Zone.
533. Will made in Canal Zone by alien.
534. Republication by codicil.
535. Nuncupative will, how to be executed.
536. Requisites of valid nuncupative will.
537. Proof of nuncupative wills.
538. Probate of nuncupative wills.
539. Written will, how revoked.
540. Evidence of revocation.
541. Revocation of duplicate.
542. Revocation by subsequent will.
543. Antecedent not revived by revocation of subsequent will.
Sec.
544. Revocation by marriage and birth of issue.
545. Effect of marriage of man on his will.
546. Effect of marriage of woman on her will.
547. Revocation by marriage and birth of issue.
548. Contract of sale not revocation.
549. Mortgage not revocation of will.
550. Transfer, when not a revocation.
551. When it is a revocation.
552. Revocation of codicils.
553. Application of provisions as to revocations.
554. After-born child, unprovided for, to succeed.
555. Children or issue of children of testator unprovided for by his will.
556. Share of after-born child, out of what part of estate to be paid.
557. Advancement during lifetime of testator.
558. Distribution of estate when legatee dies before testator.
559. Restriction on bequests for charitable uses; exceptions.
560. Execution of prior wills not affected.

Section 521. Who may make a will.—Every person over the age of eighteen years, of sound mind, may, by last will, dispose of all his estate, and such estate not disposed of by will is succeeded to as provided in chapter 26 of this title, being chargeable in both cases with the payment of all the decedent's debts, as provided in Title 4, The Code of Civil Procedure.

CROSS-REFERENCES

Disposition of property in case of intestacy, see sections 632 et seq., of this title.

Effect of marriage of man on his will, see section 545 of this title.

Validity of will, see section 525 of this title.

Wills of married women, see section 523 of this title.

Wills of unmarried women revoked by marriage, see section 546 of this title.

522. Will, or part thereof, procured by fraud.—A will, or part of a will, procured to be made by duress, menace, fraud, or undue influence, may be denied probate; and a revocation, procured by the same means, may be declared void.

CROSS-REFERENCES

Contesting probate of will, see title 4, sections 1231 et seq., and 1251 et seq.
Revocation of will, see section 539 of this title.
Undue influence as affecting contracts, see section 831 of this title.

523. Will of married woman.—A married woman may dispose of all her separate estate by will, without the consent of her husband, and may alter or revoke the will in like manner as if she were single. Her will must be executed and proved in like manner as other wills.

524. What may pass by will.—Every interest in property, to which heirs, husband, widow, or next of kin might succeed, may be disposed of by will, except as otherwise provided in sections 648 and 649 of this title.

525. Written will, how to be executed.—Every will, other than a nuncupative will, must be in writing; and every will, other than an olographic will, and a nuncupative will, must be executed and attested as follows:

1. It must be subscribed at the end thereof by the testator himself, or some person in his presence and by his direction must subscribe his name thereto;
2. The subscription must be made in the presence of the attesting witnesses, or be acknowledged by the testator to them to have been made by him or by his authority;
3. The testator must, at the time of subscribing or acknowledging the same, declare to the attesting witnesses that the instrument is his will; and
4. There must be two attesting witnesses, each of whom must sign the same as a witness, at the end of the will, at the testator's request and in his presence.

CROSS-REFERENCES

Conjoint or mutual will, see section 528 of this title.
Nuncupative will, see sections 535 et seq., of this title.
Olographic will, see section 526 of this title.
Witness to add residence, see section 527 of this title.

526. Definition of an olographic will.—An olographic will is one that is entirely written, dated, and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of the Canal Zone, and need not be witnessed.

CROSS-REFERENCE

Proof in same manner as other private writing, see title 4, section 1223.

527. Witness to add residence.—A witness to a written will must write, with his name, his place of residence; and a person who subscribes the testator's name, by his direction, must write his own name as a witness to the will. But a violation of this section does not affect the validity of the will.

528. Mutual will.—A conjoint or mutual will is valid, but it may be revoked by any of the testators in like manner with any other will.

529. Competency of subscribing witness.—If the subscribing witnesses to a will are competent at the time of attesting its execution, their subsequent incompetency, from whatever cause it may arise, does not prevent the probate and allowance of the will, if it is otherwise satisfactorily proved.

530. Gifts to subscribing witnesses void; creditors competent witnesses.—All beneficial legacies and gifts whatever, made or given in any will to a subscribing witness thereto, are void, unless there are two other competent subscribing witnesses to the same; but a mere charge on the estate of the testator for the payment of debts does not prevent his creditors from being competent witnesses to his will.

531. Subscribing witness entitled to his share by succession.—If a witness, to whom any beneficial legacy or gift, void by the next preceding section, is made, would have been entitled to any share of the estate of the testator, in case the will should not be established, he succeeds to so much of the share as would be distributed to him, not exceeding the bequest made to him in the will, and he may recover the same of the other legatees named in the will, in proportion to and out of the parts bequeathed to them.

532. Will made outside of Canal Zone.—A will made outside of the Canal Zone which might be proved and allowed by the laws of the State or country in which it was made, may be proved, allowed, and recorded in the Canal Zone, and shall have the same effect as if executed according to the laws of the Zone.

CROSS-REFERENCE

Probate of foreign wills, see title 4, sections 1241 et seq.

533. Will made in Canal Zone by alien.—A will made within the Canal Zone by a citizen or subject of another State or country, which is executed in accordance with the law of the State or country of which he is a citizen or subject, and which might be proved and allowed by the law of his own State or country, may be proved, allowed, and recorded in the Canal Zone, and shall have the same effect as if executed according to the laws of the Zone.

534. Republication by codicil.—The execution of a codicil, referring to a previous will, has the effect to republish the will, as modified by the codicil.

535. Nuncupative will, how to be executed.—A nuncupative will is not required to be in writing, nor to be declared or attested with any formalities.

CROSS-REFERENCES

Probating nuncupative wills, see sections 536 and 537 of this title.
How admitted to probate, see title 4, section 1271.

536. Requisites of valid nuncupative will.—To make a nuncupative will valid, and to entitle it to be admitted to probate, the following requisites must be observed:

(1) The estate bequeathed must not exceed in value the sum of $1,000.

(2) It must be proved by two witnesses who were present at the making thereof, one of whom was asked by the testator, at the time, to bear witness that such was his will, or to that effect.

(3) The decedent must, at the time, have been in actual military service in the field, or doing duty on shipboard at sea, and in either case in actual contemplation, fear, or peril of death, or the decedent must have been, at the time, in expectation of immediate death from an injury received the same day.

537. Proof of nuncupative wills.—No proof must be received of any nuncupative will, unless it is offered within six months after speaking the testamentary words, nor unless the words, or the substance thereof, were reduced to writing within thirty days after they were spoken.

Cross-Reference

Probate of nuncupative will, see title 4, section 1271.

538. Probate of nuncupative wills.—No probate of any nuncupative will must be granted for fourteen days after the death of the testator, nor must any nuncupative will be at any time proved, unless the testamentary words, or the substance thereof, be first committed to writing, and process issued to call in the widow, or other persons interested, to contest the probate of such will, if they think proper.

Cross-Reference

Time of probate, see title 4, section 1272.

539. Written will, how revoked.—Except in the cases in this chapter mentioned, no written will, nor any part thereof, can be revoked or altered otherwise than:

1. By a written will, or other writing of the testator, declaring such revocation or alteration, and executed with the same formalities with which a will should be executed by such testator; or

2. By being burned, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking the same, by the testator himself, or by some person in his presence and by his direction.

540. Evidence of revocation.—When a will is canceled or destroyed by any person other than the testator, the direction of the testator, and the fact of such injury or destruction, must be proved by two witnesses.

541. Revocation of duplicate.—The revocation of a will, executed in duplicate, may be made by revoking one of the duplicates.

542. Revocation by subsequent will.—A prior will is not revoked by a subsequent will, unless the latter contains an express revocation, or provisions wholly inconsistent with the terms of the former will; but in other cases the prior will remains effectual so far as consistent with the provisions of the subsequent will.

543. Antecedent not revived by revocation of subsequent will.—If, after making a will, the testator duly makes and executes a second will, the destruction, cancellation, or revocation of such second will does not revive the first will, unless it appears by the terms of such revocation that it was the intention to revive and give effect to the first will, or unless, after such destruction, cancellation, or revocation, the first will is duly republished.

544. Revocation by marriage and birth of issue.—If, after having made a will, the testator marries, and has issue of such marriage, born either in his lifetime or after his death, and the wife or issue survives him, the will is revoked, unless provision has been made for such issue by some settlement, or unless such issue are provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of such revocation can be received.

545. Effect of marriage of man on his will.—If, after making a will, the testator marries, and the wife survives the testator, the will is revoked, unless provision has been made for her by marriage contract, or unless she is provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of revocation can be received.

546. Effect of marriage of woman on her will.—If, after making a will, the testatrix marries, and the husband survives the testatrix the will is revoked, unless provision has been made for him by marriage contract, or unless he is provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of revocation can be received.

547. Revocation by marriage and birth of issue.—If, after making a will, the testatrix marries, and has issue of said marriage, born either in her lifetime or after her death, and the husband or issue survives her, the will is revoked, unless provision has been made for such issue by some settlement, or unless such issue are provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of such revocation can be received.

548. Contract of sale not revocation.—An agreement made by a testator, for the sale or transfer of property disposed of by a will previously made, does not revoke such disposal; but the property passes by the will, subject to the same remedies on the testator's agreement, for a specific performance or otherwise against the legatees, as might be had against the testator's successors, if the same had passed by succession.

549. Mortgage not revocation of will.—A charge or encumbrance upon any estate, for the purpose of securing the payment of money or the performance of any covenant or agreement, is not a revocation of any will relating to the same estate which was previously executed; but the legacies therein contained must pass, subject to such charge or encumbrance.

550. Transfer, when not a revocation.—A transfer, settlement, or other act of a testator, by which his interest in a thing previously disposed of by his will is altered, but not wholly divested, is not a revocation; but the will passes the property which would otherwise devolve by succession.

CROSS-REFERENCES

Ademption of legacies, see section 602 of this title.
Revocation, see sections 551 and 552 of this title.

551. When it is a revocation.—If the instrument by which an alteration is made in the testator's interest in a thing previously disposed of by his will expresses his intent that it shall be a revocation, or if it contains provisions wholly inconsistent with the terms and nature of the testamentary disposition, it operates as a revocation thereof, unless such inconsistent provisions depend on a condition or contingency by reason of which they do not take effect.

552. Revocation of codicils.—The revocation of a will revokes all its codicils.

553. Application of provisions as to revocations.—The provisions of this chapter in relation to the revocation of wills apply to all wills made by any testator living at the expiration of one year from the time it takes effect.

554. After-born child, unprovided for, to succeed.—Whenever a testator has a child born after the making of his will, either in his lifetime or after his death, and dies leaving such child unprovided for by any settlement, and neither provided for nor in any way mentioned in his will, the child succeeds to the same portion of the testator's property that he would have succeeded to if the testator had died intestate.

CROSS-REFERENCE

Succession by posthumous children, see sections 291, 590, and 650 of this title.

555. Children or issue of children of testator unprovided for by his will.—When any testator omits to provide in his will for any of his children, or for the issue of any deceased child, unless it appears that such omission was intentional, such child, or the issue of such child, has the same share in the estate of the testator as if he had died intestate, and succeeds thereto as provided in the next preceding section.

556. Share of after-born child, out of what part of estate to be paid.—When any share of the estate of a testator is assigned to a child born after the making of a will, or to a child, or the issue of a child, omitted in the will, as hereinbefore mentioned, the same must first be taken from the estate not disposed of by the will, if any; if that is not sufficient, so much as may be necessary must be taken from all the legatees, in proportion to the value they may respectively receive under the will, unless the obvious intention of the testator in relation to some specific bequest, or other provision in the will, would thereby be defeated; in such case, such specific legacy or provision may be exempted from such apportionment, and a different apportionment, consistent with the intention of the testator, may be adopted.

557. Advancement during lifetime of testator.—If such children, or their descendants, so unprovided for, had an equal proportion of the testator's estate bestowed on them in the testator's lifetime, by way of advancement, they take nothing in virtue of the provisions of sections 554 to 556 of this title.

Cross-References

Advancements in cases of intestacy, see sections 642 to 646 of this title.
Advancements, question of, when raised, see title 4, section 1641.

558. Distribution of estate when legatee dies before testator.—When any estate is bequeathed to any child or other relation of the testator, and the legatee dies before the testator, leaving lineal descendants, or any such child or other relation is named in a will as a legatee and is dead at the time the will is executed, but leaves lineal descendants surviving the testator, such descendants take the estate so given by the will in the same manner as the legatee would have done had he survived the testator.

Cross-References

"By right of representation," term defined, see section 650 of this title.
Death of legatee, legacy fails when, see sections 594 and 595 of this title.

559. Restriction on bequests for charitable uses; exceptions.—No estate shall be bequeathed to any charitable or benevolent society or corporation, or to any person or persons in trust for charitable uses, except the same be done by will duly executed at least thirty days before the decease of the testator; and if so made at least thirty days prior to such death, such legacy shall be valid: *Provided*, That no such bequest shall collectively exceed one third of the estate of the testator, leaving legal heirs, and in such case a pro rata deduction from such bequests shall be made so as to reduce the aggregate thereof to one third of such estate; and all dispositions of property made contrary hereto shall be void, and go to the residuary legatee, next of kin, or heirs, according to law: *Provided*, *however*, That nothing in this section contained shall apply to bequests or devises made by will executed at least six months prior to the death of a testator who leaves no parent, husband, wife, child, or grandchild, or when all of such heirs shall have by writing, executed at least six months prior to his death, waived the restriction contained herein.

560. Execution of prior wills not affected.—The provisions of this chapter do not impair the validity of the execution of any will made before it takes effect.

CHAPTER 24.—INTERPRETATION OF WILLS, AND EFFECT OF VARIOUS PROVISIONS

Sec.
571. Testator's intention to be carried out.
572. Intention to be ascertained from the will.
573. Rules of interpretation.
574. Several instruments are to be taken together.
575. Harmonizing various parts.
576. In what case bequest not affected.
577. When ambiguous or doubtful.
578. Words taken in ordinary sense.
579. Words to receive an operative construction.
580. Intestacy to be avoided.
581. Effect of technical words.
582. Technical words not necessary.
583. Power to devise, how executed by terms of will.
584. Bequest of all of property.
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586. " Heirs ", " relatives ", " issue ", " descendants ", etc.
587. Words of donation and of limitation.
588. To what time words refer.
589. Bequest to a class.
590. When child born after testator's death takes under will.
591. Mistakes and omissions.
592. When bequests vest.
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594. Death of a legatee.
595. Interests in remainder are not affected.
596. Conditional bequests.
597. Condition precedent, what.
598. Effect of condition precedent.
599. Conditions precedent, when deemed performed.
600. Conditions subsequent, what.
601. Legatees take as tenants in common.
602. Advancements, when ademptions.
603. Construction of prior wills not affected.

Section 571. Testator's intention to be carried out.—A will is to be construed according to the intention of the testator. Where his intention cannot have effect to its full extent, it must have effect as far as possible.

CROSS-REFERENCES

Declaration of testator as evidence, see section 572 of this title.
Intention of testator, see section 622 of this title.

572. Intention to be ascertained from the will.—In case of uncertainty arising upon the face of a will, as to the application of any of its provisions, the testator's intention is to be ascertained from the words of the will, taking into view the circumstances under which it was made, exclusive of his oral declarations.

CROSS-REFERENCE

Testator's declarations as to intention, see section 591 of this title.

573. Rules of interpretation.—In interpreting a will, subject to the law of the Canal Zone, the rules prescribed by the following sections of this chapter are to be observed, unless an intention to the contrary clearly appears.

574. Several instruments are to be taken together.—Several testamentary instruments, executed by the same testator, are to be taken and construed together as one instrument.

575. Harmonizing various parts.—All the parts of a will are to be construed in relation to each other, and so as, if possible, to form one consistent whole; but where several parts are absolutely irreconcilable the latter must prevail.

576. In what case bequest not affected.—A clear and distinct bequest cannot be affected by any reasons assigned therefor, or by any other words not equally clear and distinct, or by inference or argument from other parts of the will, or by an inaccurate recital of or reference to its contents in another part of the will.

CROSS-REFERENCE

Intention of testator, see sections 572 et seq., of this title.

577. When ambiguous or doubtful.—Where the meaning of any part of a will is ambiguous or doubtful, it may be explained by any reference thereto, or a recital thereof, in another part of the will.

578. Words taken in ordinary sense.—The words of a will are to be taken in their ordinary and grammatical sense, unless a clear intention to use them in another sense can be collected, and that other can be ascertained.

579. Words to receive an operative construction.—The words of a will are to receive an interpretation which will give to every expression some effect, rather than one which will render any of the expressions inoperative.

Cross-Reference

Harmonizing various parts, see section 575 of this title.

580. Intestacy to be avoided.—Of two modes of interpreting a will, that is to be preferred which will prevent a total intestacy.

581. Effect of technical words.—Technical words in a will are to be taken in their technical sense, unless the context clearly indicates a contrary intention, or unless it satisfactorily appears that the will was drawn solely by the testator, and that he was unacquainted with such technical sense.

Cross-Reference

Technical words, how construed, see sections 11 and 911 of this title.

582. Technical words not necessary.—Technical words are not necessary to give effect to any species of disposition by a will.

583. Power to devise, how executed by terms of will.—Property embraced in a power to devise, passes by a will purporting to devise all the property of the testator.

584. Bequest of all of property.—A bequest of all of the testator's property, in express terms, or in any other terms denoting such intent, passes all the property which he was entitled to dispose of by will at the time of his death.

Cross-Reference

General and specific legacies, see section 611 of this title.

585. Residuary clause.—A bequest of the residue of the testator's personal property, passes all the personal property which he was entitled to bequeath at the time of his death, not otherwise effectually bequeathed by his will.

586. "Heirs", "relatives", "issue", "descendants", etc.—A testamentary disposition to "heirs", "relations", "nearest relations", "representatives", "legal representatives", or "personal representatives" or "family", "issue", "descendants", "nearest" or "next of kin" of any person, without other words of qualification, and when the terms are used as words of donation, and not of limitation, vests the property in those who would be entitled to succeed to the property of such person, according to the provisions of chapter 26 of this title on succession.

CROSS-REFERENCE

"Issue", interpretation of, see section 466 of this title.

587. Words of donation and of limitation.—The terms mentioned in the next preceding section are used as words of donation, and not of limitation, when the property is given to the person so designated, directly, and not as a qualification of an estate given to the ancestor of such person.

588. To what time words refer.—Words in a will referring to death or survivorship, simply, relate to the time of the testator's death, unless possession is actually postponed, when they must be referred to the time of possession.

589. Bequest to a class.—A testamentary disposition to a class includes every person answering the description at the testator's death; but when the possession is postponed to a future period, it includes also all persons coming within the description before the time to which possession is postponed.

CROSS-REFERENCE

Posthumous children, see section 590 of this title.

590. When child born after testator's death takes under will.—A child conceived before, but not born until after a testator's death, or any other period when a disposition to a class vests in right or in possession, takes, if answering to the description of the class.

CROSS-REFERENCES

Child en ventre sa mere, see section 24 of this title.
Succession by posthumous children, see sections 291, 554, and 650 of this title.

591. Mistakes and omissions.—When, applying a will, it is found that there is an imperfect description, or that no person or property exactly answers the description, mistakes and omissions must be corrected, if the error appears from the context of the will or from extrinsic evidence; but evidence of the declarations of the testator as to his intentions cannot be received.

CROSS-REFERENCE

Evidence of intention, see section 572 of this title.

592. When bequests vest.—Testamentary dispositions, including bequests to a person on attaining majority, are presumed to vest at the testator's death.

593. When cannot be divested.—A testamentary disposition, when vested, cannot be divested unless upon the occurrence of the precise contingency prescribed by the testator for that purpose.

CROSS-REFERENCE

Bequest to a class, see section 589 of this title.

594. Death of a legatee.—If a legatee dies during the lifetime of the testator, the testamentary disposition to him fails, unless an intention appears to substitute some other in his place, except as provided in section 558 of this title.

595. Interests in remainder are not affected.—The death of a legatee of a limited interest before the testator's death does not defeat the interests of persons in remainder, who survive the testator.

596. Conditional bequests.—A conditional disposition is one which depends upon the occurrence of some uncertain event, by which it is either to take effect or be defeated.

CROSS-REFERENCES

Conditions of ownership, see sections 301 et seq., of this title.
Conditional obligations, see sections 691 to 699 of this title.

597. Condition precedent, what.—A condition precedent in a will is one which is required to be fulfilled before a particular disposition takes effect.

CROSS-REFERENCE

Conditions precedent, what are, see sections 302 and 693 of this title.

598. Effect of condition precedent.—Where a testamentary disposition is made upon a condition precedent, nothing vests until the condition is fulfilled, except where such fulfillment is impossible, in which case the disposition vests, unless the condition was the sole motive thereof, and the impossibility was unknown to the testator, or arose from an unavoidable event subsequent to the execution of the will.

599. Conditions precedent, when deemed performed.—A condition precedent in a will is to be deemed performed when the testator's intention has been substantially, though not literally, complied with.

600. Conditions subsequent, what.—A condition subsequent is where an estate or interest is so given as to vest immediately, subject only to be divested by some subsequent act or event.

CROSS-REFERENCE

Conditions subsequent, see sections 302 and 695 of this title.

601. Legatees take as tenants in common.—A legacy given to more than one person vests in them as owners in common.

602. Advancements, when ademptions.—Advancements or gifts are not to be taken as ademptions of general legacies, unless such intention is expressed by the testator in writing.

CROSS-REFERENCE

Advancement in cases of intestacy, see sections 642 to 646 of this title.

603. Construction of prior wills not affected.—The provisions of this chapter do not affect the construction of any will executed before it takes effect.

CHAPTER 25.—GENERAL PROVISIONS RELATING TO WILLS

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611. Nature and designation of legacies.
612. Order of resort to estate for debts.
613. Same for legacies.
614. Legacies, how charged with debts.
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616. Specific legacies.
617. Possession of legatees.
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620. Legacies, when due.
621. Interest.
622. Construction of these rules.
623. Executor according to the tenor.
624. Power given executor to appoint is invalid.
625. Executor not to act till qualified.
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Section 611. Nature and designation of legacies.—Legacies are distinguished and designated, according to their nature, as follows:

1. A legacy of a particular thing, specified and distinguished from all others of the same kind belonging to the testator, is specific; if such legacy fails, resort cannot be had to the other property of the testator;
2. A legacy is demonstrative when the particular fund or personal property is pointed out from which it is to be taken or paid; if such fund or property fails, in whole or in part, resort may be had to the general assets, as in case of a general legacy;
3. An annuity is a bequest of certain specified sums periodically; if the fund or property out of which they are payable fails, resort may be had to the general assets, as in case of a general legacy;
4. A residuary legacy embraces only that which remains after all the bequests of the will are discharged;
5. All other legacies are general legacies.

CROSS-REFERENCE

Legacy and annuities, when due, see section 620 of this title.

612. Order of resort to estate for debts.—The property of a testator, except as otherwise specially provided in this title and Title 4, The Code of Civil Procedure, must be resorted to for the payment of debts, in the following order:

(1) The property which is expressly appropriated by the will for the payment of the debts;

(2) Property not disposed of by the will;

(3) Property which is devised or bequeathed to a residuary legatee;

(4) Property which is not specifically devised or bequeathed; and

(5) All other property ratably. Before any debts are paid, the expenses of the administration and the allowance to the family must be paid or provided for.

613. Same for legacies.—The property of a testator, except as otherwise specially provided in this title and Title 4, The Code of Civil Procedure, must be resorted to for the payment of legacies, in the following order:

(1) The property which is expressly appropriated by the will for the payment of the legacies.

(2) Property not disposed of by the will.

(3) Property which is devised or bequeathed to a residuary legatee.

(4) Property which is specifically devised or bequeathed.

CROSS-REFERENCES

Payment of legacies, when legacies are due, see section 622 of this title.
When legacies may be paid, see title 4, sections 1611 et seq.

614. Legacies, how charged with debts.—Legacies to husband, widow, or kindred of any class are chargeable only after legacies to persons not related to the testator.

615. Abatement.—Abatement takes place in any class only as between legacies of that class, unless a different intention is expressed in the will.

616. Specific legacies.—In a specific legacy, the title passes by the will, but possession can only be obtained from the personal representative; and he may be authorized by the district court to sell the property devised and bequeathed in the cases herein provided.

CROSS-REFERENCE

How title passes in cases of intestacy, see section 633 of this title.

617. Possession of legatees.—Where specific legacies are for life only, the first legatee must sign and deliver to the second legatee, or, if there is none, to the personal representative, an inventory of the property, expressing that the same is in his custody for life only, and that, on his decease, it is to be delivered and to remain to the use and for the benefit of the second legatee, or to the personal representative, as the case may be.

618. Bequest of interest.—In case of a bequest of the interest or income of a certain sum or fund, the income accrues from the testator's death.

CROSS-REFERENCES

Accumulations, see section 321 of this title.
Annuities commence at testator's death, see section 620 of this title.

619. Satisfaction.—A legacy, or a gift in contemplation, fear, or peril of death, may be satisfied before death.

620. Legacies, when due.—Legacies are due and deliverable at the expiration of one year after the testator's decease. Annuities commence at the testator's decease.

CROSS-REFERENCE

Legacies payable after four months, see title 4, section 1611.

621. Interest.—Legacies bear interest from the time when they are due and payable, except that legacies for maintenance, or to the testator's widow, bear interest from the testator's decease.

622. Construction of these rules.—Sections 618 to 621 of this title are in all cases to be controlled by a testator's express intention.

CROSS-REFERENCE

Intention of testator, see section 571 of this title.

623. Executor according to the tenor.—Where it appears, by the terms of a will, that it was the intention of the testator to commit the execution thereof and the administration of his estate to any person as executor, such person, although not named executor, is entitled to letters testamentary in like manner as if he had been named executor.

CROSS-REFERENCE

Appointment of executors, see title 4, sections 1281 et seq.

624. Power given executor to appoint is invalid.—An authority to an executor to appoint an executor is void.

CROSS-REFERENCE

Executor of executor, see title 4, section 1287.

625. Executor not to act till qualified.—No person has any power, as an executor, until he qualifies, except that, before letters have been issued, he may pay funeral charges and take necessary measures for the preservation of the estate.

CROSS-REFERENCES

Payment of debts, see section 612 of this title.
Qualification of executor, see title 4, sections 1351 et seq.

626. Liability of beneficiaries for testator's obligations.—Those to whom property is given by will are liable for the obligations of the testator in the cases and to the extent prescribed by Title 4, The Code of Civil Procedure.

CHAPTER 26.—SUCCESSION

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653. Successor liable for decedent's obligations.
654. Person convicted of murder of decedent not to succeed.

Section 631. Succession defined.—Succession is the coming in of another to take the property of one who dies without disposing of it by will.

632. Intestate's estate, to whom passes.—The property of one who dies without disposing of it by will, passes to the heirs of the intestate, subject to the control of the district court, and to the possession of any administrator appointed by that court, for the purposes of administration.

CROSS-REFERENCES

Possession of personal representative, see title 4, sections 1440 and 1521.
Proceedings to determine heirship, see title 4, section 1621.

633. Succession to and distribution of estate of deceased person.—When any person having title to any estate not otherwise limited by marriage contract, dies without disposing thereof by will, it is succeeded to and must be distributed, unless otherwise expressly provided in this title and Title 4, The Code of Civil Procedure, subject to the payment of his debts, in the following manner:

1. If the decedent leaves a surviving husband or wife, and only one child, or the lawful issue of one child, in equal shares to the surviving husband, or wife and child, or issue of such child. If the decedent leaves a surviving husband or wife, and more than one child living, or one child living and the lawful issue of one or more deceased children, one third to the surviving husband or wife, and the remainder in equal shares to his children and to the lawful issue of any deceased child, by right of representation; but if there is no child of decedent living at his death, the remainder goes to all of his lineal descendants; and if all of the descendants are in the same degree of kindred to the decedent, they share equally, otherwise they take according to the right of representation. If the decedent leaves no surviving husband or wife, but leaves issue, the whole estate goes to such issue; and if such issue consists of more than one child living, or one child living and the lawful issue of one or more deceased children, then the estate goes in equal shares to the children living, or to the child living and the issue of the deceased child or children by right of representation;

2. If the decedent leaves no issue, the estate goes one half to the surviving husband or wife, and the other half to the decedent's father and mother in equal shares, and if either is dead the whole of said half goes to the other. If there is no father or mother, then one half goes in equal shares to the brothers and sisters of decedent and to the children or grandchildren of any deceased brother or sister by right of representation. If the decedent leaves no issue, nor husband nor wife, the estate must go to his father and mother in equal shares, or if either is dead then to the other;

3. If there is neither issue, husband, wife, father, nor mother then in equal shares to the brothers and sisters of decedent and to the children or grandchildren of any deceased brother or sister, by right of representation;

4. If the decedent leaves a surviving husband or wife, and neither issue, father, mother, brother, sister, nor the children or grandchildren of a deceased brother or sister, the whole estate goes to the surviving husband or wife;

5. If the decedent leaves neither issue, husband, wife, father, mother, brother, nor sister, the estate must go to the next of kin, in equal degree, excepting that, when there are two or more collateral kindred, in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor must be preferred to those claiming through an ancestor more remote;

6. If the decedent leaves several children, or one child and the issue of one or more children, and any such surviving child dies under age and not having been married, all the estate that came to the deceased child by inheritance from such decedent descends in equal shares to the other children of the same parent and to the issue of any such other children who are dead by right of representation;

7. If, at the death of such child, who dies under age, not having been married, all the other children of his parents are also dead, and any of them has left issue, the estate that came to such child by inheritance from his parent descends to the issue of all other

children of the same parent; and if all the issue are in the same degree of kindred to the child, they share the estate equally, otherwise they take according to the right of representation;

8. If the deceased is a widow, or widower, and leaves no issue, and the estate, or any portion thereof, was common property of such decedent and his or her deceased spouse, while such spouse was living, such property goes in equal shares to the children of such deceased spouse and to the descendants of such children by right of representation, and if none, then one half of such common property goes to the father and mother of such decedent in equal shares, or to the survivor of them if either be dead, or if both be dead, then in equal shares to the brothers and sisters of such decedent and to the descendants of any deceased brother or sister by right of representation, and the other half goes to the father and mother of such deceased spouse in equal shares, or to the survivor of them if either be dead, or if both be dead, then in equal shares to the brothers and sisters of such deceased spouse and to the descendants of any deceased brother or sister by right of representation.

If the estate, or any portion thereof, was separate property of such deceased spouse, while living, and came to such decedent from such spouse by descent or bequest, such property goes in equal shares to the children of such spouse and to the descendants of any deceased child by right of representation, and if none, then to the father and mother of such spouse, in equal shares, or to the survivor of them if either be dead, or if both be dead, then in equal shares to the brothers and sisters of such spouse and to the descendants of any deceased brother or sister by right of representation.

9. If the decedent leaves no husband, wife, or kindred, and there are no heirs to take his estate or any portion thereof, under subdivision 8 of this section, the same escheats to the United States.

Cross-References

Administration of intestates' estates, see title 4, sections 1303 and 1311 et seq.
Escheat, proceedings on, see title 4, sections 1181 et seq.

634. Illegitimate children to inherit in certain events.—Every illegitimate child is an heir of the person who, in writing, signed in the presence of a competent witness, acknowledges himself to be the father of such child; and in all cases is an heir of his mother; and inherits his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock, but he does not represent his father or mother by inheriting any part of the estate of his or her kindred, either lineal or collateral, unless, before his death, his parents shall have intermarried, and his father, after such marriage, acknowledges him as his child, or adopts him into his family; in which case such child and all the legitimate children are considered brothers and sisters, and on the death of either of them, intestate, and without issue, the others inherit his estate, and are heirs, as hereinbefore provided, in like manner as if all the children had been legitimate; saving to the father and mother, respectively, their rights in the estates of all the children in like manner as if all had been legitimate. The issue of all marriages null in law, or dissolved by divorce, are legitimate.

CROSS-REFERENCES

Adoption of illegitimate child, see section 196 of this title.
Children of annulled marriage legitate, see section 57 of this title.
Divorce not to affect legitimacy, see section 118 of this title.

635. Succession to illegitimate child.—The estate of an illegitimate child, who, having title to any estate not otherwise limited by marriage contract, dies without disposing thereof by will, is succeeded to as if he had been born in lawful wedlock if he has been legitimated by a subsequent marriage of his parents, or adopted by his father as provided by section 196 of this title; otherwise, it is succeeded to as if he had been born in lawful wedlock and had survived his father and all persons related to him only through his father.

636. Degrees of kindred, how computed.—The degree of kindred is established by the number of generations, and each generation is called a degree.

637. Same; direct and collateral consanguinity.—The series of degrees forms the line; the series of degrees between persons who descend from one another is called direct or lineal consanguinity; and the series of degrees between persons who do not descend from one another, but spring from a common ancestor, is called the collateral line or collateral consanguinity.

638. Same; direct line descending, and direct line ascending.—The direct line is divided into a direct line descending and a direct line ascending. The first is that which connects the ancestor with those who descend from him. The second is that which connects a person with those from whom he descends.

639. Same; degrees in direct line.—In the direct line there are as many degrees as there are generations. Thus, the son is, with regard to the father, in the first degree; the grandson in the second; and vice versa with regard to the father and grandfather toward the sons and grandsons.

640. Same; degrees in collateral line.—In the collateral line the degrees are counted by generations, from one of the relations up to the common ancestor, and from the common ancestor to the other relations. In such computation the decedent is excluded, the relative included, and the ancestor counted but once. Thus, brothers are related in the second degree; uncle and nephew in the third degree; cousins-german in the fourth, and so on.

641. Relatives of the half blood.—Kindred of the half blood inherit equally with those of the whole blood in the same degree, unless the inheritance come to the intestate by descent or gift of some one of his ancestors, in which case all those who are not of the blood of such ancestors must be excluded from such inheritance.

CROSS-REFERENCE

Kindred of half blood as administrators, see title 4, section 1312.

642. Advancements constitute part of distributive share.—Any estate given by the decedent in his lifetime as an advancement to any child, or other heir, is a part of the estate of the decedent for the purposes of division and distribution thereof among his heirs, and must be taken by such child, or other heir, toward his share of the estate of the decedent.

CROSS-REFERENCE

Advancements, see sections 557 and 602 of this title.

643. Advancements, when too much, or not enough.—If the amount of such advancement exceeds the share of the heir receiving the same, he must be excluded from any further portion in the division and distribution of the estate, but he must not be required to refund any part of such advancement; and if the amount so received is less than his share, he is entitled to so much more as will give him his full share of the estate of the decedent.

644. What are advancements.—All gifts and grants are made as advancements, if expressed in the gift or grant to be so made, or if charged in writing by the decedent as an advancement, or acknowledged in writing as such, by the child or other successor or heir.

645. Value of advancements, how determined.—If the value of the estate so advanced is expressed in the grant, or in the charge thereof made by the decedent, or in the acknowledgment of the party receiving it, it must be held as of that value in the division and distribution of the estate; otherwise, it must be estimated according to its value when given, as nearly as the same can be ascertained.

646. When heir, advanced to, dies before decedent.—If any child, or other heir receiving advancement, dies before the decedent, leaving heirs, the advancement must be taken into consideration in the division and distribution of the estate, and the amount thereof must be allowed accordingly by the representatives of the heirs receiving the advancement, in like manner as if the advancement had been made directly to them.

647. Inheritance of husband and wife from each other.—The provisions of the preceding sections of this chapter, as to the inheritance of the husband and wife from each other, apply only to the separate property of the decedents.

648. Community property on death of spouse.—Upon the death of either husband or wife, one half of the community property belongs to the surviving spouse; the other half is subject to the testamentary disposition of the decedent, and in the absence thereof goes to the surviving spouse, subject to the provisions of the section next following.

649. Community property subject to administration; exception; husband's control after death of wife.—Community property passing from the control of the husband by reason of his death is subject to administration, his debts, family allowance, and the charges and expenses of administration: *Provided*, *however*, That the clothing of the decedent and the household effects not exceeding in value $2,500 shall go to the surviving wife without administration, and shall not be subject to the debts and allowance aforesaid.

Community property passing from the control of the husband by virtue of testamentary disposition by the wife is subject to administration, his debts, and the charges and expenses of administration, but the husband, pending administration, shall retain the same power to sell, manage and deal with the community personal property as he had in her lifetime; and his possession and control of the community property shall not be transferred to the personal representative of the wife, except to the extent necessary to carry her will into effect.

CROSS-REFERENCE

Community property, defined, see sections 140 and 280 of this title.

650. Inheritance by representation.—Inheritance or succession "by right of representation" takes place when the descendants of any deceased heir take the same share or right in the estate of another person that their parents would have taken if living. Posthumous children are considered as living at the death of their parents.

651. Aliens may inherit, when, and how.—Resident aliens may take in all cases by succession as citizens; and no person capable of succeeding under the provisions of this chapter is precluded from such succession by reason of the alienage of any relative; but no nonresident foreigner can take by succession unless he appears and claims such succession within five years after the death of the decedent to whom he claims succession.

CROSS-REFERENCES

See, also, section 262 of this title.
Time to claim succession, see section 263 of this title.

652. Escheat of property.—If a person dies owning any property situated in the Canal Zone and leaving no heir, next of kin, legatee, or other person entitled thereto, such property shall escheat to the United States. (Dec. 29, 1926, ch. 19, sec. 17, 44 Stat. 930; Feb. 27, 1933, ch. 128, sec. 421, 47 Stat. 1182.)

CROSS-REFERENCES

See, also, section 633 (9) of this title.
Escheat, proceedings on, see title 4, sections 1181 et seq.

653. Successor liable for decedent's obligations.—Those who succeed to the property of a decedent are liable for his obligations in the cases and to the extent prescribed by Title 4, The Code of Civil Procedure.

654. Persons convicted of murder of decedent not to succeed.—No person who has been convicted of the murder of the decedent shall be entitled to succeed to any portion of his estate; but the portion thereof to which he would otherwise be entitled to succeed descends to the other persons entitled thereto under the provisions of this chapter.

CHAPTER 27.—OBLIGATIONS IN GENERAL

Art. Sec.
1. Definition of obligations 661
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3. Transfer of obligations 711
4. Extinction of obligations 721

ARTICLE 1.—DEFINITION OF OBLIGATIONS

Sec.
661. Obligation, what.
662. How created and enforced.

Section 661. Obligation, what.—An obligation is a legal duty, by which a person is bound to do or not to do a certain thing.

662. How created and enforced.—An obligation arises either from:

(1) The contract of the parties; or

(2) The operation of law. An obligation arising from operation of law may be enforced in the manner provided by law, or by civil action or proceeding.

ARTICLE 2.—INTERPRETATION OF OBLIGATIONS

A. General Rules of Interpretation

Sec.
671. General rules.

B. Joint or Several Obligations

681. Obligations, joint or several, etc.
682. When joint.
683. Contribution between joint parties.

C. Conditional Obligations

691. Obligation, when conditional.
692. Conditions, kinds of.
693. Condition precedent.
694. Conditions concurrent
Sec.
695. Conditions subsequent.
696. Performance, etc., of conditions, when essential.
697. When performance, etc., excused.
698. Impossible or unlawful conditions void.
699. Conditions involving forfeiture, how construed.

D. Alternative Obligations

701. Who has the right of selection.
702. Right of selection, how lost.
703. Alternatives indivisible.
704. Nullity of one or more of alternative obligations.

A. GENERAL RULES OF INTERPRETATION

671. General rules.—The rules which govern the interpretation of contracts are prescribed by chapter 30 of this title. Other obligations are interpreted by the same rules by which statutes of a similar nature are interpreted.

B. JOINT OR SEVERAL OBLIGATIONS

681. Obligations, joint or several, etc.—An obligation imposed upon several persons, or a right created in favor of several persons, may be:

1. Joint;
2. Several; or
3. Joint and several.

682. When joint.—An obligation imposed upon several persons, or a right created in favor of several persons, is presumed to be joint, and not several, except in the special cases mentioned in the chapter on the interpretation of contracts. This presumption, in the case of a right, can be overcome only by express words to the contrary.

Cross-References

Promise joined in by several, all of whom receive some benefit, is presumed to be joint and several, see section 924 of this title.

Promise in the singular, but executed by several, is presumed to be joint and several, see section 925 of this title.

683. Contribution between joint parties.—A party to a joint, or joint and several obligation, who satisfies more than his share of the claim against all, may require a proportionate contribution from all the parties joined with him.

Cross-Reference

Surety acquires rights of creditors, see section 2145 of this title.

C. CONDITIONAL OBLIGATIONS

691. Obligation, when conditional.—An obligation is conditional, when the rights or duties of any party thereto depend upon the occurrence of an uncertain event.

692. Conditions, kinds of.—Conditions may be precedent, concurrent, or subsequent.

Cross-References

Conditional legacies, see sections 596 and 597 of this title.
Conditions concurrent, see section 694 of this title.
Conditions of ownership, see sections 301 to 305 of this title.
Conditions precedent, see section 693 of this title.
Conditions subsequent, see section 695 of this title.

693. Condition precedent.—A condition precedent is one which is to be performed before some right dependent thereon accrues, or some act dependent thereon is performed.

Cross-Reference

Conditions precedent, see sections 301 to 303, 597 and 744 of this title.

694. Conditions concurrent.—Conditions concurrent are those which are mutually dependent, and are to be performed at the same time.

Cross-Reference

Concurrent conditions, performance of, see section 744 of this title.

695. Conditions subsequent.—A condition subsequent is one referring to a future event, upon the happening of which the obligation becomes no longer binding upon the other party, if he chooses to avail himself of the condition.

Cross-Reference

Conditions subsequent, see sections 302 and 600 of this title.

696. Performance, etc., of conditions, when essential.—Before any party to an obligation can require another party to perform any act under it, he must fulfill all conditions precedent thereto imposed upon himself and must be able and offer to fulfill all conditions concurrent so imposed upon him on the like fulfillment by the other party, except as provided by the section next following.

Cross-References

Concurrent or precedent conditions, performance of, see section 744 of this title.
Impossible conditions void, see section 698 of this title.

697. When performance, etc., excused.—If a party to an obligation gives notice to another, before the latter is in default, that he will not perform the same upon his part, and does not retract such notice before the time at which performance upon his part is due, such other party is entitled to enforce the obligation without previously performing or offering to perform any conditions upon his part in favor of the former party.

Cross-References

Excuse of performance, see section 761 of this title.

Refusal to accept performance before the time to perform, see section 764 of this title.

698. Impossible or unlawful conditions void.—A condition in a contract, the fulfillment of which is impossible or unlawful within the meaning of sections 851 to 855 of this title, or which is repugnant to the nature of the interest created by the contract, is void.

Cross-References

Conditions, when impossible, see sections 852 et seq., of this title.

Object of contracts, see sections 851 to 855 of this title.

Unlawful conditions, see sections 303 et seq., of this title.

699. Conditions involving forfeiture, how construed.—A condition involving a forfeiture must be strictly interpreted against the party for whose benefit it is created.

D. ALTERNATIVE OBLIGATIONS

701. Who has the right of selection.—If an obligation requires the performance of one of two acts, in the alternative, the party required to perform has the right of selection, unless it is otherwise provided by the terms of the obligation.

702. Right of selection, how lost.—If the party having the right of selection between alternative acts does not give notice of his selection to the other party within the time, if any, fixed by the obligation for that purpose, or, if none is so fixed, before the time at which the obligation ought to be performed, the right of selection passes to the other party.

703. Alternatives indivisible.—The party having the right of selection between alternative acts must select one of them in its entirety, and cannot select part of one and part of another without the consent of the other party.

704. Nullity of one or more of alternative obligations.—If one of the alternative acts required by an obligation is such as the law will not enforce, or becomes unlawful, or impossible of performance, the obligation is to be interpreted as though the other stood alone.

ARTICLE 3.—TRANSFER OF OBLIGATIONS

Sec.
711. Burden of obligation not transferable.
712. Rights arising out of obligation transferable.
713. Nonnegotiable instruments may be transferred.

711. Burden of obligation not transferable.—The burden of an obligation may be transferred with the consent of the party entitled to its benefit, but not otherwise.

712. Rights arising out of obligation transferable.—A right arising out of an obligation is the property of the person to whom it is due, and may be transferred as such.

CROSS-REFERENCES

Assignment of things in action, see section 372 of this title.

Incidents following things transferred, see section 472 of this title.

Literary property is assignable, see section 383 of this title.

Mere possibility cannot be transferred, see section 442 of this title.

Nonnegotiable instrument transferable by indorsement, see section 713 of this title.

Products of the mind, assignment of, see section 383 of this title.

Property of any kind may be transferred, see section 441 of this title.

713. Nonnegotiable instruments may be transferred.—A nonnegotiable written contract for the payment of money or personal property may be transferred by indorsement, in like manner with negotiable instruments. Such indorsement shall transfer all the rights of the assignor under the instrument to the assignee, subject to all equities and defenses existing in favor of the maker at the time of the indorsement.

ARTICLE 4.—EXTINCTION OF OBLIGATIONS

A. PERFORMANCE

Sec.

721. Obligation extinguished by performance.
722. Performance by one of several joint debtors.
723. Performance to one of joint creditors.
724. Effect of directions by creditors.
725. Partial performance.
726. Payment, what.
727. Application of general performance.

B. OFFER OF PERFORMANCE

731. Obligation extinguished by offer of performance.
732. Offer of partial performance.
733. By whom to be made.
734. To whom to be made.
735. Where offer may be made.
736. When offer must be made.
737. Same.
738. Compensation after delay in performance.
739. Offer to be made in good faith.
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741. Ability and willingness essential.
742. Production of thing to be delivered not necessary.
743. Thing offered to be kept separate.
744. Performance of condition precedent.
745. Written receipts.
746. Extinction of pecuniary obligation.
747. Objections to mode of offer.
748. Title to thing offered.

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749. Custody of thing offered.
750. Effect of offer on accessories of obligation.
751. Creditor's retention of thing which he refuses to accept.

C. PREVENTION OF PERFORMANCE OR OFFER

761. What excuses performance, etc.
762. Effect of prevention of performance.
763. Same.
764. Effect of refusal to accept performance before offer.

D. ACCORD AND SATISFACTION

771. Accord, what.
772. Effect of accord.
773. Satisfaction, what.
774. Part performance.

E. NOVATION

781. Novation, what.
782. Modes of novation.
783. Novation a contract.
784. Rescission of novation.

F. RELEASE

791. Obligation extinguished by release.
792. Certain claims not affected by general release.
793. Release of one of several joint debtors.

A. PERFORMANCE

721. Obligation extinguished by performance.—Full performance of an obligation, by the party whose duty it is to perform it, or by any other person on his behalf, and with his assent, if accepted by the creditor, extinguishes it.

722. Performance by one of several joint debtors.—Performance of an obligation by one of several persons who are jointly liable under it extinguishes the liability of all.

723. Performance to one of joint creditors.—An obligation in favor of joint creditors is extinguished by performance rendered to any of them, except in the case of a deposit made by joint owners, which is regulated by chapters 36 to 38 of this title on deposit.

CROSS-REFERENCE

Performance to one of joint creditors, see section 1107 of this title.

724. Effect of directions by creditors.—If a creditor, or any one of two or more joint creditors, at any time directs the debtor to perform his obligation in a particular manner, the obligation is extinguished by performance in that manner, even though the creditor does not receive the benefit of such performance.

725. Partial performance.—A partial performance of an indivisible obligation extinguishes a corresponding proportion thereof if the benefit of such performance is voluntarily retained by the creditor, but not otherwise. If such partial performance is of such a nature that the creditor cannot avoid retaining it without injuring his own property, his retention thereof is not presumed to be voluntary.

CROSS-REFERENCE

Effect of part performance, see sections 732, 774, and 2114 of this title.

726. Payment, what.—Performance of an obligation for the delivery of money only is called payment.

CROSS-REFERENCE

Tender, effect of, see sections 746 and 750 of this title.

727. Application of general performance.—Where a debtor, under several obligations to another, does an act, by way of performance, in whole or in part, which is equally applicable to two or more of such obligations, such performance must be applied as follows:

(1) If, at the time of performance, the intention or desire of the debtor that such performance should be applied to the extinction of any particular obligation, be manifested to the creditor, it must be so applied.

(2) If no such application be then made, the creditor, within a reasonable time after such performance, may apply it toward the extinction of any obligation, performance of which was due to him from the debtor at the time of such performance; except that if similar obligations were due to him both individually and as a trustee, he must, unless otherwise directed by the debtor, apply the performance to the extinction of all such obligations in equal proportion; and an application once made by the creditor cannot be rescinded without the consent of the debtor.

(3) If neither party makes such application within the time prescribed herein, the performance must be applied to the extinction of obligations in the following order; and, if there be more than one obligation of a particular class, to the extinction of all in that class, ratably:

1. Of interest due at the time of the performance.

2. Of principal due at that time.
3. Of the obligation earliest in date of maturity.
4. Of an obligation not secured by a lien or collateral undertaking.
5. Of an obligation secured by a lien or collateral undertaking.

B. OFFER OF PERFORMANCE

731. Obligation extinguished by offer of performance.—An obligation is extinguished by an offer of performance, made in conformity to the rules herein prescribed, and with intent to extinguish the obligation.

CROSS-REFERENCES

By whom offer may be made, see section 733 of this title.
Duties of person making tender, see section 749 of this title.
Tender of payment, see sections 746 and 750 of this title.
Tender of article passes title, see sections 748 and 750 of this title.
Objection to tender must be specified, see title 4, section 2153.
Offer in writing equal to tender, payment or performance, see title 4, section 2151.
Tender equivalent to payment on redemption from execution, see title 4, section 605.

732. Offer of partial performance.—An offer of partial performance is of no effect.

CROSS-REFERENCE

Part performance, effect of, see sections 725, 774, and 2114 of this title.

733. By whom to be made.—An offer of performance must be made by the debtor, or by some person on his behalf and with his assent.

734. To whom to be made.—An offer of performance must be made to the creditor, or to any one of two or more joint creditors, or to a person authorized by one or more of them to receive or collect what is due under the obligation, if such creditor or authorized person is present at the place where the offer may be made; and if not, wherever the creditor may be found.

CROSS-REFERENCE

Where offer may be made, see section 735 of this title.

735. Where offer may be made.—In the absence of an express provision to the contrary, an offer of performance may be made, at the option of the debtor:

1. At any place appointed by the creditor;
2. Wherever the person to whom the offer ought to be made can be found;
3. If such person cannot with reasonable diligence, be found within the Canal Zone, and within a reasonable distance from his residence or place of business, or if he evades the debtor, then at his residence or place of business, if the same can, with reasonable diligence, be found within the Canal Zone; or
4. If this cannot be done, then at any place within the Canal Zone.

736. When offer must be made.—Where an obligation fixes a time for its performance, an offer of performance must be made at that time, within reasonable hours, and not before nor afterwards.

737. Same.—Where an obligation does not fix the time for its performance, an offer of performance may be made at any time before the debtor, upon a reasonable demand, has refused to perform.

738. Compensation after delay in performance.—Where delay in performance is capable of exact and entire compensation, and time has not been expressly declared to be of the essence of the obligation, an offer of performance, accompanied with an offer of such compensation, may be made at any time after it is due, but without prejudice to any rights acquired by the creditor, or by any other person, in the meantime.

739. Offer to be made in good faith.—An offer of performance must be made in good faith, and in such manner as is most likely, under the circumstances, to benefit the creditor.

740. Conditional offer.—An offer of performance must be free from any conditions which the creditor is not bound, on his part, to perform.

CROSS-REFERENCE

Offer of performance upon condition, see sections 744 and 745 of this title.

741. Ability and willingness essential.—An offer of performance is of no effect if the person making it is not able and willing to perform according to the offer.

742. Production of thing to be delivered not necessary.—The thing to be delivered, if any, need not in any case be actually produced, upon an offer of performance, unless the offer is accepted.

743. Thing offered to be kept separate.—A thing, when offered by way of performance, must not be mixed with other things from which it cannot be separated immediately and without difficulty.

CROSS-REFERENCE

Custody of thing offered, see section 749 of this title.

744. Performance of condition precedent.—When a debtor is entitled to the performance of a condition precedent to, or concurrent with, performance on his part, he may make his offer to depend upon the due performance of such condition.

CROSS-REFERENCES

Conditions precedent defined, see sections 302, 597, and 693 of this title.
Conditions subsequent defined, see sections 302, 600, and 695 of this title.
Performance of conditions, see section 696 of this title.
Unlawful and impossible conditions void, see sections 303 and 698 of this title.

745. Written receipts.—A debtor has a right to require from his creditor a written receipt for any property delivered in performance of his obligation.

CROSS-REFERENCE

Whoever pays entitled to receipt, see title 4, section 2152.

746. Extinction of pecuniary obligation.—An obligation for the payment of money is extinguished by a due offer of payment, if the amount is immediately deposited in the name of the creditor, with some bank of deposit within the Canal Zone, of good repute, and notice thereof is given to the creditor.

CROSS-REFERENCE

Tender stopping interest, see section 750 of this title.

747. Objections to mode of offer.—All objections to the mode of an offer of performance, which the creditor has an opportunity to state at the time to the person making the offer, and which could be then obviated by him, are waived by the creditor, if not then stated.

CROSS-REFERENCE

See, also, title 4, section 2153.

748. Title to thing offered.—The title to a thing duly offered in performance of an obligation passes to the creditor, if the debtor at the time signifies his intention to that effect.

749. Custody of thing offered.—The person offering a thing, other than money, by way of performance, must, if he means to treat it as belonging to the creditor, retain it as a depositary for hire, until the creditor accepts it, or until he has given reasonable notice to the creditor that he will retain it no longer, and, if with reasonable diligence he can find a suitable depositary therefor, until he has deposited it with such person.

CROSS-REFERENCES

Depositary for hire, see section 1132 of this title.
Thing offered to be kept separate, see section 743 of this title.

750. Effect of offer on accessories of obligation.—An offer of payment or other performance, duly made, though the title to the thing offered be not transferred to the creditor, stops the running of interest on the obligation, and has the same effect upon all its incidents as a performance thereof.

CROSS-REFERENCES

Tender transfers title, see section 748 of this title.
Offer in writing equivalent to tender, see title 4, section 2151.

751. Creditor's retention of thing which he refuses to accept.—If anything is given to a creditor by way of performance, which he refuses to accept as such, he is not bound to return it without demand; but if he retains it, he is a gratuitous depositary thereof.

CROSS-REFERENCE

Gratuitous depositary, see sections 1121 et seq., of this title.

C. PREVENTION OF PERFORMANCE OR OFFER

761. What excuses performance, etc.—The want of performance of an obligation, or of an offer of performance, in whole or in part, or any delay therein, is excused by the following causes, to the extent to which they operate:

1. When such performance or offer is prevented or delayed by the act of the creditor, or by the operation of law, even though there may have been a stipulation that this shall not be an excuse;

2. When it is prevented or delayed by an irresistible, superhuman cause, or by the act of public enemies of the United States, unless the parties have expressly agreed to the contrary; or

3. When the debtor is induced not to make it, by any act of the creditor intended or naturally tending to have that effect, done at or before the time at which such performance or offer may be made, and not rescinded before that time.

CROSS-REFERENCE

Excuse of performance, see section 697 of this title.

762. Effect of prevention of performance.—If the performance of an obligation be prevented by the creditor, the debtor is entitled to all the benefits which he would have obtained if it had been performed by both parties.

763. Same.—If performance of an obligation is prevented by any cause excusing performance, other than the act of the creditor, the debtor is entitled to a ratable proportion of the consideration to which he would have been entitled upon full performance, according to the benefit which the creditor receives from the actual performance.

764. Effect of refusal to accept performance before offer.—A refusal by a creditor to accept performance, made before an offer thereof, is equivalent to an offer and refusal, unless, before performance is actually due, he gives notice to the debtor of his willingness to accept it.

CROSS-REFERENCE

Refusal to perform entitles the other party to enforce the obligation, without performance on his part, see section 697 of this title.

D. ACCORD AND SATISFACTION

771. Accord, what.—An accord is an agreement to accept, in extinction of an obligation, something different from or less than that to which the person agreeing to accept is entitled.

CROSS-REFERENCES

Order on third person, effect of, see section 784 of this title.
Release of obligations, see section 791 of this title.
Substituting new obligation for existing one is novation, see sections 781 et seq., of this title.

772. Effect of accord.—Though the parties to an accord are bound to execute it, yet it does not extinguish the obligation until it is fully executed.

773. Satisfaction, what.—Acceptance, by the creditor, of the consideration of an accord extinguishes the obligation, and is called satisfaction.

CROSS-REFERENCE

Part performance, see section 774 of this title.

774. Part performance.—Part performance of an obligation, either before or after a breach thereof, when expressly accepted by the creditor in writing, in satisfaction, or rendered in pursuance of an agreement in writing for that purpose, though without any new consideration, extinguishes the obligation.

CROSS-REFERENCE

Part performance, see sections 725, 732, and 2114 of this title.

E. NOVATION

781. Novation, what.—Novation is the substitution of a new obligation for an existing one.

CROSS-REFERENCES

Novation a contract, see section 783 of this title.
Right to sue on contract made for one's benefit, see section 814 of this title.

782. Modes of novation.—Novation is made:

1. By the substitution of a new obligation between the same parties, with intent to extinguish the old obligation;
2. By the substitution of a new debtor in place of the old one, with intent to release the latter; or
3. By the substitution of a new creditor in place of the old one, with intent to transfer the rights of the latter to the former.

783. Novation a contract.—Novation is made by contract, and is subject to all the rules concerning contracts in general.

784. Rescission of novation.—When the obligation of a third person, or an order upon such person is accepted in satisfaction, the creditor may rescind such acceptance if the debtor prevents such person from complying with the order, or from fulfilling the obligation; or if, at the time the obligation or order is received, such person is insolvent, and this fact is unknown to the creditor, or if, before the creditor can with reasonable diligence present the order to the person upon whom it is given, he becomes insolvent.

F. RELEASE

791. Obligation extinguished by release.—An obligation is extinguished by a release therefrom given to the debtor by the creditor, upon a new consideration, or in writing, with or without new consideration.

CROSS-REFERENCE

Writing imports a consideration, see section 870 of this title.

792. Certain claims not affected by general release.—A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

793. Release of one of several joint debtors.—A release of one of two or more joint debtors does not extinguish the obligations of any of the others, unless they are mere guarantors; nor does it affect their right to contribution from him.

Cross-References

Guarantor's liability discharged by what dealings with debtor, see section 2111 of this title.

Rights of sureties, see section 2141 of this title.

CHAPTER 28.—NATURE OF A CONTRACT

Art. Sec.
1. Definition 801
2. Parties 811
3. Consent 821
4. Object 851
5. Consideration 861

ARTICLE 1.—DEFINITION

Sec.
801. Contract, what.
802. Essential elements of contract.

Section 801. Contract, what.—A contract is an agreement to do or not to do a certain thing.

Cross-References

Object of a contract, see sections 851 to 855 of this title.

Parties to a contract, see sections 811 to 814 of this title.

802. Essential elements of contract.—It is essential to the existence of a contract that there should be:

1. Parties capable of contracting;
2. Their consent;
3. A lawful object; and
4. A sufficient cause or consideration.

Cross-References

Consent, see sections 821 to 835 of this title.

Consideration, see sections 861 to 871 of this title.

Requisites of object, see section 852 of this title.

Unlawful contracts, see section 931 of this title.

ARTICLE 2.—PARTIES

Sec.
811. Who may contract.
812. Minors, etc.
813. Identification of parties necessary.
814. When contract for benefit of third person may be enforced.

811. Who may contract.—All persons are capable of contracting, except minors and persons of unsound mind.

Cross-References

Contracts of infants, see sections 25 et seq., and 982 of this title.

Contracts of married women, see sections 134, 135, and 143 of this title.

Contracts of persons of unsound mind, see sections 30 et seq., of this title.

812. Minors, etc.—Minors, and persons of unsound mind, have only such capacity as is defined by chapter 2 of this title.

Cross-Reference

Powers of minors, see sections 25 et seq., of this title.

813. Identification of parties necessary.—It is essential to the validity of a contract, not only that the parties should exist, but that it should be possible to identify them.

814. When contract for benefit of third person may be enforced.—A contract, made expressly for the benefit of a third person, may be enforced by him at any time before the parties thereto rescind it.

ARTICLE 3.—CONSENT

Sec.
821. Essentials of consent.
822. Consent, when voidable.
823. Apparent consent, when not free.
824. When deemed to have been obtained by fraud and so forth.
825. Duress, what.
826. Menace, what.
827. Fraud, actual or constructive.
828. Actual fraud, what.
829. Constructive fraud.
830. Actual fraud a question of fact.
831. Undue influence, what.
832. Mistake, what.
833. Mistake of fact.
834. Mistake of law.
Sec.
835. Mistake of foreign laws.
836. Mutuality of consent.
837. Communication of consent.
838. Mode of communicating acceptance of proposal.
839. When communication deemed complete.
840. Acceptance by performance of conditions.
841. Acceptance must be absolute.
842. Revocation of proposal.
843. Revocation, how made.
844. Ratification of contract void for want of consent.
845. Assumption of obligation by acceptance of benefits.

821. Essentials of consent.—The consent of the parties to a contract must be:

1. Free;
2. Mutual; and
3. Communicated by each to the other.

Cross-References

Consent, when not free, and effect, see sections 822 and 823 of this title.
Consent, when not mutual, see section 836 of this title.
Consent, how communicated, see section 837 of this title.

822. Consent, when voidable.—A consent which is not free is nevertheless not absolutely void, but may be rescinded by the parties, in the manner prescribed by sections 951 to 954 of this title.

Cross-Reference

Recission of contracts, see sections 951 et seq., and 2723 et seq., of this title.

823. Apparent consent, when not free.—An apparent consent is not real or free when obtained through:

1. Duress;
2. Menace;
3. Fraud;
4. Undue influence; or
5. Mistake.

Cross-References

Duress, defined, see section 825 of this title.
Menace, defined, see section 826 of this title.
Fraud, defined, see section 827 of this title.
Undue influence, defined, see section 831 of this title.
Mistake, defined, see section 832 of this title.
Rescission, where consent obtained by mistake, duress, menace, fraud, or undue influence, see section 952 of this title.

824. **When deemed to have been obtained by fraud, etc.**—Consent is deemed to have been obtained through one of the causes mentioned in the next preceding section, only when it would not have been given had such cause not existed.

825. **Duress, what.**—Duress consists in:

1. Unlawful confinement of the person of the party, or of the husband or wife of such party, or of an ancestor, descendant, or adopted child of such party, husband, or wife;

2. Unlawful detention of the property of any such person; or

3. Confinement of such person, lawful in form, but fraudulently obtained, or fraudulently made unjustly harassing or oppressive.

CROSS-REFERENCE

Rescission of contract for duress, see section 952 of this title.

826. **Menace, what.**—Menace consists in a threat:

1. Of such duress as is specified in subdivisions 1 and 3 of the next preceding section;

2. Of unlawful and violent injury to the person or property of any such person as is specified in the next preceding section; or

3. Of injury to the character of any such person.

CROSS-REFERENCE

Rescission of contract for menace, see section 952 of this title.

827. **Fraud, actual or constructive.**—Fraud is either actual or constructive.

CROSS-REFERENCE

Rescission of contract for fraud, see section 952 of this title.

828. **Actual fraud, what.**—Actual fraud, within the meaning of this article, consists in any of the following acts, committed by a party to the contract, or with his connivance, with intent to deceive another party thereto, or to induce him to enter into the contract:

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

2. The positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;

3. The suppression of that which is true, by one having knowledge or belief of the fact;

4. A promise made without any intention of performing it; or

5. Any other act fitted to deceive.

CROSS-REFERENCES

Deceit, see sections 972 and 973 of this title.
Fraudulent instruments and transfers, see sections 2761 et seq., of this title.
Rescission of contracts for fraud, see section 952 of this title.

829. **Constructive fraud.**—Constructive fraud consists:

1. In any breach of duty which, without an actually fraudulent intent, gains an advantage to the person in fault, or any one claiming under him, by misleading another to his prejudice, or to the prejudice of any one claiming under him; or

2. In any such act or omission as the law specially declares to be fraudulent, without respect to actual fraud.

CROSS-REFERENCE

Rescission of contract for fraud, see section 952 of this title.

830. Actual fraud a question of fact.—Actual fraud is always a question of fact.

831. Undue influence, what.—Undue influence consists:

1. In the use, by one in whom a confidence is reposed by another, or who holds a real or apparent authority over him, of such confidence or authority for the purpose of obtaining an unfair advantage over him;
2. In taking an unfair advantage of another's weakness of mind; or
3. In taking a grossly oppressive and unfair advantage of another's necessities or distress.

CROSS-REFERENCES

Rescission of contracts, see sections 952 and 2721 of this title.
Undue influence vitiating will, see section 522 of this title.

832. Mistake, what.—Mistake may be either of fact or law.

833. Mistake of fact.—Mistake of fact is a mistake, not caused by the neglect of a legal duty on the part of the person making the mistake, and consisting in:

1. An unconscious ignorance or forgetfulness of a fact past or present, material to the contract; or
2. Belief in the present existence of a thing material to the contract which does not exist, or in the past existence of such a thing, which has not existed.

CROSS-REFERENCE

Rescission of contract for mistake, see section 952 of this title.

834. Mistake of law.—Mistake of law constitutes a mistake, within the meaning of this article, only when it arises from:

1. A misapprehension of the law by all parties, all supposing that they knew and understood it, and all making substantially the same mistake as to the law; or
2. A misapprehension of the law by one party, of which the others are aware at the time of contracting, but which they do not rectify.

CROSS-REFERENCE

Rescission of contract for mistake, see section 952 of this title.

835. Mistake of foreign laws.—Mistake of foreign laws is a mistake of fact.

CROSS-REFERENCE

Foreign laws, how proved, see title 4, sections 1926 and 1927.

836. Mutuality of consent.—Consent is not mutual unless the parties all agree upon the same thing in the same sense. But in certain cases defined by the chapter on interpretation, they are to be deemed so to agree without regard to the fact.

CROSS-REFERENCE

Interpretation of contracts, see sections 901 et seq., of this title.

837. Communication of consent.—Consent can be communicated with effect, only by some act or omission of the party contracting, by which he intends to communicate it, or which necessarily tends to such communication.

838. Mode of communicating acceptance of proposal.—If a proposal prescribes any conditions concerning the communication of its acceptance, the proposer is not bound unless they are conformed to; but in other cases any reasonable and usual mode may be adopted.

839. When communication deemed complete.—Consent is deemed to be fully communicated between the parties as soon as the party accepting a proposal has put his acceptance in the course of transmission to the proposer, in conformity to the next preceding section.

840. Acceptance by performance of conditions.—Performance of the conditions of a proposal, or the acceptance of the consideration offered with a proposal, is an acceptance of the proposal.

841. Acceptance must be absolute.—An acceptance must be absolute and unqualified, or must include in itself an acceptance of that character which the proposer can separate from the rest, and which will conclude the person accepting. A qualified acceptance is a new proposal.

842. Revocation of proposal.—A proposal may be revoked at any time before its acceptance is communicated to the proposer, but not afterwards.

843. Revocation, how made.—A proposal is revoked:

1. By communication of notice of revocation by the proposer to the other party, in the manner prescribed by sections 837 to 839 of this title, before his acceptance has been communicated to the former;
2. By the lapse of the time prescribed in such proposal for its acceptance, or if no time is so prescribed, the lapse of a reasonable time without communication of the acceptance;
3. By the failure of the acceptor to fulfill a condition precedent to acceptance; or
4. By the death or insanity of the proposer.

844. Ratification of contract void for want of consent.—A contract which is voidable solely for want of due consent, may be ratified by a subsequent consent.

845. Assumption of obligation by acceptance of benefits.—A voluntary acceptance of the benefit of a transaction is equivalent to a consent to all the obligations arising from it, so far as the facts are known, or ought to be known, to the person accepting.

CROSS-REFERENCE

He who takes benefit must bear burden, see section 2843 of this title.

ARTICLE 4.—OBJECT

Sec.
851. Object, what.
852. Requisites of object.
853. Impossibility, what.
Sec.
854. When contract wholly void.
855. When contract partially void.

851. Object, what.—The object of a contract is the thing which it is agreed, on the part of the party receiving the consideration, to do or not to do.

Cross-References

Unlawful conditions, see section 698 of this title.
Unlawful contracts, see sections 852 and 931 et seq., of this title.

852. Requisites of object.—The object of a contract must be lawful when the contract is made, and possible and ascertainable by the time the contract is to be performed.

Cross-References

Essential elements of contract, see section 802 of this title.
Unlawful contracts, see sections 931 et seq., of this title.

853. Impossibility, what.—Everything is deemed possible except that which is impossible in the nature of things.

854. When contract wholly void.—Where a contract has but a single object, and such object is unlawful, whether in whole or in part, or wholly impossible of performance, or so vaguely expressed as to be wholly unascertainable, the entire contract is void.

Cross-Reference

Consideration illegal in part, see sections 855 and 864 of this title.

855. When contract partially void.—Where a contract has several distinct objects, of which one at least is lawful, and one at least is unlawful, in whole or in part, the contract is void as to the latter and valid as to the rest.

Cross-References

Contract illegal in part, see section 864 of this title.
Provision in, impossible of performance, effect of, see section 869 of this title.

ARTICLE 5.—CONSIDERATION

Sec.
861. Good consideration, what.
862. How far legal or moral obligation is a good consideration.
863. Consideration lawful.
864. Effect of its illegality.
865. Consideration executed or executory.
866. Executory consideration.
867. How ascertained.
Sec.
868. Effect of impossibility of ascertaining consideration.
869. Same.
870. Written instrument presumptive evidence of consideration.
871. Burden of proof to invalidate sufficient consideration.

861. Good consideration, what.—Any benefit conferred, or agreed to be conferred, upon the promisor, by any other person, to which the promisor is not lawfully entitled, or any prejudice suffered, or agreed to be suffered, by such person, other than such as he is at the time of consent lawfully bound to suffer, as an inducement to the promisor, is a good consideration for a promise.

862. How far legal or moral obligation is a good consideration.—An existing legal obligation resting upon the promisor, or a moral obligation originating in some benefit conferred upon the promisor, or prejudice suffered by the promisee, is also a good consideration for a promise, to an extent corresponding with the extent of the obligation, but no further or otherwise.

863. Consideration lawful.—The consideration of a contract must be lawful within the meaning of section 931 of this title.

Cross-Reference

Unlawful contracts, see sections 931 et seq., of this title.

864. Effect of its illegality.—If any part of a single consideration for one or more objects, or of several considerations for a single object, is unlawful, the entire contract is void.

Cross-Reference

Consideration illegal in part, see sections 854 and 855 of this title.

865. Consideration executed or executory.—A consideration may be executed or executory, in whole or in part. Insofar as it is executory it is subject to the provisions of sections 851 to 855 of this title.

866. Executory consideration.—When a consideration is executory, it is not indispensable that the contract should specify its amount or the means of ascertaining it. It may be left to the decision of a third person, or regulated by any specified standard.

867. How ascertained.—When a contract does not determine the amount of the consideration, nor the method by which it is to be ascertained, or when it leaves the amount thereof to the discretion of an interested party, the consideration must be so much money as the object of the contract is reasonably worth.

868. Effect of impossibility of ascertaining consideration.—Where a contract provides an exclusive method by which its consideration is to be ascertained, which method is on its face impossible of execution, the entire contract is void.

869. Same.—Where a contract provides an exclusive method by which its consideration is to be ascertained, which method appears possible on its face, but in fact is, or becomes, impossible of execution, such provision only is void.

Cross-Reference

Effect of partial invalidity of contract, see section 855 of this title.

870. Written instrument presumptive evidence of consideration.—A written instrument is presumptive evidence of a consideration.

Cross-References

Distinction between sealed and unsealed instruments abolished, see section 890 of this title.

Presumption of consideration for negotiable instrument, see section 2351 of this title.

871. Burden of proof to invalidate sufficient consideration.—The burden of showing a want of consideration sufficient to support an instrument lies with the party seeking to invalidate or avoid it.

Cross-Reference

Presumption of consideration for written contract, see title 4, section 2007.

CHAPTER 29.—MANNER OF CREATING CONTRACTS

Sec.

881. Contracts, express or implied.
882. Express contracts, what.
883. Implied contract, what.
884. What contracts may be oral.
885. Contract not in writing through fraud, may be enforced against fraudulent party.
886. What contracts must be written.
887. Effect of written contracts.
888. Contract in writing, takes effect when.
889. Provisions on delivery of grants to apply.
890. Distinctions between sealed and unsealed instruments abolished.

Section 881. Contracts, express or implied.—A contract is either express or implied.

882. Express contracts, what.—An express contract is one the terms of which are stated in words.

883. Implied contract, what.—An implied contract is one the existence and terms of which are manifested by conduct.

Cross-Reference

Obligations imposed by law, see sections 971 et seq., of this title.

884. What contracts may be oral.—All contracts may be oral, except such as are specially required by statute to be in writing.

Cross-Reference

Contracts when to be in writing, see sections 885, 886, and 984 of this title.

885. Contract not in writing through fraud, may be enforced against fraudulent party.—Where a contract, which is required by law to be in writing, is prevented from being put into writing by the fraud of a party thereto, any other party who is by such fraud led to believe that it is in writing, and acts upon such belief to his prejudice, may enforce it against the fraudulent party.

886. What contracts must be written.—The following contracts are invalid, unless the same, or some note or memorandum thereof, is in writing and subscribed to by the party to be charged, or by his agent:

1. An agreement that by its terms is not to be performed within a year from the making thereof;

2. A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in section 2074 of this title;

3. An agreement made upon consideration of marriage other than a mutual promise to marry;

4. An agreement for the leasing of real property for a longer period than one year, and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent is in writing, subscribed by the party sought to be charged;

5. An agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or a commission;

6. An agreement which by its terms is not to be performed during the lifetime of the promisor, or an agreement to bequeath any property, or make any provision for any person by will.

Cross-References

Contracts to sell or sales of goods or choses in action, see section 984 of this title.

Fraudulent transfers, see section 2762 of this title.

Guaranty, see sections 2073 et seq., of this title.

Oral authorization, sufficiency of, see section 1626 of this title.

Power of attorney to execute mortgage, see section 2242 of this title.

Statute of frauds, see title 4, sections 2015 to 2018.

887. **Effect of written contracts.**—The execution of a contract in writing, whether the law requires it to be written or not, supersedes all the negotiations or stipulations concerning its matter which preceded or accompanied the execution of the instrument.

Cross-References

Writing supersedes oral stipulations, see section 905 of this title.

Agreement reduced to writing deemed whole, see title 4, section 1874.

888. **Contract in writing, takes effect when.**—A contract in writing takes effect upon its delivery to the party in whose favor it is made, or to his agent.

Cross-Reference

Delivery of transfers in writing, see generally section 455 of this title.

889. **Provisions on delivery of grants to apply.**—The provisions of sections 451 and 454 to 459 of this title, concerning the delivery of grants, absolute and conditional, apply to all written contracts.

Cross-Reference

Mode of transfer, see sections 451 et seq., of this title.

890. **Distinctions between sealed and unsealed instruments abolished.**—All distinctions between sealed and unsealed instruments are abolished.

CHAPTER 30.—INTERPRETATION OF CONTRACTS

Sec.
901. Uniformity of interpretation.
902. Contracts, how to be interpreted.
903. Intention of parties, how ascertained.
904. Intention to be ascertained from language.
905. Interpretation of written contracts.
906. Writing, when disregarded.
907. Effect to be given to every part of contract.
908. Several contracts, when taken together.
909. Interpretation in favor of contract.
910. Words to be understood in the usual sense.
911. Technical words.
912. Law of place.
913. Contracts explained by circumstances.
914. Contract restricted to its evident object.

Sec.
915. Interpretation in sense in which promisor believed promisee to rely.
916. Particular clauses subordinate to general intent.
917. Contract, partly written and partly printed.
918. Repugnancies, how reconciled.
919. Inconsistent words rejected.
920. Words to be taken most strongly against whom.
921. Reasonable stipulations, when implied.
922. Necessary incidents implied.
923. Time of performance of contract.
924. When joint and several.
925. Same.
926. Executed and executory contracts, what.

Section 901. Uniformity of interpretation.—All contracts, whether public or private, are to be interpreted by the same rules, except as otherwise provided by this title.

902. Contracts, how to be interpreted.—A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful.

CROSS-REFERENCES

Contract restricted to its evident object, see section 914 of this title.
Parol evidence to prove intention, see title 4, sections 1872 et seq.

903. Intention of parties, how ascertained.—For the purpose of ascertaining the intention of the parties to a contract, if otherwise doubtful, the rules given in this chapter are to be applied.

CROSS-REFERENCES

Construction against party causing ambiguity, see section 920 of this title.
Parol evidence with respect to writings, see title 4, sections 1872 and 1874.

904. Intention to be ascertained from language.—The language of a contract is to govern its interpretation, if the language is clear and explicit, and does not involve an absurdity.

905. Interpretation of written contracts.—When a contract is reduced to writing, the intention of the parties is to be ascertained from the writing alone, if possible; subject, however, to the other provisions of this chapter.

CROSS-REFERENCES

Writing supersedes oral negotiations, see section 887 of this title.
Agreement reduced to writing deemed the whole, see title 4, section 1874.
Parol evidence in construing writings, see title 4, sections 1872 et seq.

906. Writing, when disregarded.—When, through fraud, mistake, or accident, a written contract fails to express the real intention of the parties, such intention is to be regarded, and the erroneous parts of the writing disregarded.

CROSS-REFERENCES

Principles governing in revising contract, see section 2713 of this title.
Revising contract for fraud or mistake, see section 2711 of this title.
Evidence of circumstances, see title 4, sections 1874 and 1878.

907. Effect to be given to every part of contract.—The whole of a contract is to be taken together, so as to give effect to every part, if reasonably practicable, each clause helping to interpret the other.

CROSS-REFERENCES

See, also, title 4, section 1876.
Repugnancies and inconsistencies in, see sections 918 and 919 of this title.

908. Several contracts, when taken together.—Several contracts relating to the same matters, between the same parties, and made as parts of substantially one transaction, are to be taken together.

909. Interpretation in favor of contract.—A contract must receive such an interpretation as will make it lawful, operative, definite, reasonable, and capable of being carried into effect, if it can be done without violating the intention of the parties.

910. Words to be understood in the usual sense.—The words of a contract are to be understood in their ordinary and popular sense, rather than according to their strict legal meaning; unless used by the parties in a technical sense, or unless a special meaning is given to them by usage, in which case the latter must be followed.

CROSS-REFERENCE

Technical words, see title 4, sections 7 and 1879.

911. Technical words.—Technical words are to be interpreted as usually understood by persons in the profession or business to which they relate, unless clearly used in a different sense.

CROSS-REFERENCE

Technical words, how construed, see sections 11 and 581 of this title.

912. Law of place.—A contract is to be interpreted according to the law and usage of the place where it is to be performed; or, if it does not indicate a place of performance, according to the law and usage of the place where it is made.

CROSS-REFERENCES

Usage, see title 4, section 1888.
Construction of language as relating to place where used, see title 4, section 1875.

913. Contracts explained by circumstances.—A contract may be explained by reference to the circumstances under which it was made, and the matter to which it relates.

CROSS-REFERENCE

Contract may be explained by circumstances, see title 4, sections 1874 and 1878.

914. Contract restricted to its evident object.—However broad may be the terms of a contract, it extends only to those things concerning which it appears that the parties intended to contract.

915. Interpretation in sense in which promisor believed promisee to rely.—If the terms of a promise are in any respect ambiguous or uncertain, it must be interpreted in the sense in which the promisor believed, at the time of making it, that the promisee understood it.

CROSS-REFERENCES

Interpretation against promisor, see section 920 of this title.
What construction preferred, see title 4, section 1882.

916. Particular clauses subordinate to general intent.—Particular clauses of a contract are subordinate to its general intent.

CROSS-REFERENCE

Repugnancies and inconsistencies, see sections 918 and 919 of this title.

917. Contract, partly written and partly printed.—Where a contract is partly written and partly printed, or where part of it is written or printed under the special directions of the parties, and with a special view to their intention, and the remainder is copied from a form originally prepared without special reference to the particular parties and the particular contract in question, the written parts control the printed parts, and the parts which are purely original control those which are copied from a form. And if the two are absolutely repugnant, the latter must be so far disregarded.

918. Repugnancies, how reconciled.—Repugnancy in a contract must be reconciled, if possible, by such an interpretation as will give some effect to the repugnant clauses, subordinate to the general intent and purpose of the whole contract.

CROSS-REFERENCE

Inconsistent words rejected, see section 919 of this title.

919. Inconsistent words rejected.—Words in a contract which are wholly inconsistent with its nature, or with the main intention of the parties, are to be rejected.

CROSS-REFERENCE

Repugnancies, how reconciled, see section 918 of this title.

920. Words to be taken most strongly against whom.—In cases of uncertainty not removed by the preceding rules, the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist. The promisor is presumed to be such party; except in a contract between a public officer or body, as such, and a private party, in which it is presumed that all uncertainty was caused by the private party.

CROSS-REFERENCES

Interpretation in sense promisor believed promisee to rely, see section 915 of this title.

Interpretation of doubtful words, see section 463 of this title.

921. Reasonable stipulations, when implied.—Stipulations which are necessary to make a contract reasonable, or conformable to usage, are implied, in respect to matters concerning which the contract manifests no contrary intention.

922. Necessary incidents implied.—All things that in law or usage are considered as incidental to a contract, or as necessary to carry it into effect, are implied therefrom, unless some of them are expressly mentioned therein, when all other things of the same class are deemed to be excluded.

CROSS-REFERENCE

Incident follows principal, see sections 472 and 2862 of this title.

923. Time of performance of contract.—If no time is specified for the performance of an act required to be performed, a reasonable time is allowed. If the act is in its nature capable of being done instantly—as, for example, if it consists in the payment of money only—it must be performed immediately upon the thing to be done being exactly ascertained.

CROSS-REFERENCE

Delay in, where time not of essence, see section 738 of this title.

924. **When joint and several.**—Where all the parties who unite in a promise receive some benefit from the consideration, whether past or present, their promise is presumed to be joint and several.

925. **Same.**—A promise, made in the singular number, but executed by several persons, is presumed to be joint and several.

CROSS-REFERENCE

Contracts, joint and several, see sections 681 et seq., of this title.

926. **Executed and executory contracts, what.**—An executed contract is one, the object of which is fully performed. All others are executory.

CHAPTER 31.—UNLAWFUL CONTRACTS

Sec.
931. What is unlawful.
932. Certain contracts unlawful.
933. Contract fixing damages, void.
934. Exception.
935. Contract in restraint of trade, void.
936. Exception in favor of partnership arrangements.
937. Contract in restraint of marriage, void.

Section 931. What is unlawful.—That is not lawful which is:

1. Contrary to an express provision of law;
2. Contrary to the policy of express law, though not expressly prohibited; or
3. Otherwise contrary to good morals.

CROSS-REFERENCES

Conditions, when void, see sections 303 to 305 of this title.
Contract obtained through duress, menace, fraud, undue influence, or mistake, see section 823 of this title.
Contracts in restraint of marriage, see section 937 of this title.
Contracts in restraint of trade, see section 935 of this title.
Duress, see section 825 of this title.
Fraud, see sections 827 et seq., of this title.
Menace, see section 826 of this title.
Mistake, see section 832 of this title.
Undue influence, see section 831 of this title.

932. **Certain contracts unlawful.**—All contracts which have for their object, directly or indirectly, to exempt anyone from responsibility for his own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent, are against the policy of the law.

CROSS-REFERENCES

Carrier cannot exempt himself from liability for negligent or wrongful acts, see section 1475 of this title.
Fraud, see section 827 of this title.

933. Contract fixing damages, void.—Every contract by which the amount of damage to be paid, or other compensation to be made, for a breach of an obligation, is determined in anticipation thereof, is to that extent void, except as expressly provided in the section next following.

934. Exception.—The parties to a contract may agree therein upon an amount which shall be presumed to be the amount of damage sustained by a breach thereof, when, from the nature of the case, it would be impracticable or extremely difficult to fix the actual damage.

935. Contract in restraint of trade, void.—Every contract by which anyone is restrained from exercising a lawful profession, trade, or business of any kind, otherwise than as provided by sections 936 and 937 of this title, is to that extent void.

936. Exception in favor of partnership arrangements.—Partners may, upon or in anticipation of a dissolution of the partnership, agree that none of them will carry on a similar business within the same city or town where the partnership business has been transacted, or within a specified part thereof.

937. Contract in restraint of marriage, void.—Every contract in restraint of the marriage of any person, other than a minor, is void.

Cross-Reference

Conditions in restraint of marriage, see section 304 of this title.

CHAPTER 32.—EXTINCTION OF CONTRACTS

Art. Sec.
1. In general 941
2. Rescission 951
3. Alteration and cancelation 961

ARTICLE 1.—IN GENERAL

Section 941. Contract, how extinguished.—A contract may be extinguished in like manner with any other obligation, and also in the manner prescribed by this chapter.

Cross-Reference

Cancelation of instruments, see sections 2731 et seq., of this title.

ARTICLE 2.—RESCISSION

Sec.
951. Rescission extinguishes contract.
952. When party may rescind.
953. When stipulations against right to rescind do not defeat it.
954. Rescission, how effected.

951. Rescission extinguishes contract.—A contract is extinguished by its rescission.

952. When party may rescind.—A party to a contract may rescind the same in the following cases only:

1. If the consent of the party rescinding, or of any party jointly contracting with him, was given by mistake, or obtained through

duress, menace, fraud, or undue influence, exercised by or with the connivance of the party as to whom he rescinds, or of any other party to the contract jointly interested with such party;

2. If, through the fault of the party as to whom he rescinds, the consideration for his obligation fails, in whole or in part;

3. If such consideration becomes entirely void from any cause;

4. If such consideration, before it is rendered to him, fails in a material respect, from any cause; or

5. By consent of all the other parties.

CROSS-REFERENCES

Cancelation of instruments, see sections 2731 et seq., of this title.

Contract not free, when obtained by mistake, duress, menace, fraud, or undue influence, see section 823 of this title.

False representation, rescission of insurance policy for, see section 1920 of this title.

Falsity of warranty, rescission of insurance policy for, see section 1909 of this title.

Rescission, see sections 2721 et seq., of this title.

Stipulation against right to rescind, see section 953 of this title.

Violation of material warranty, rescission of insurance policy for, see section 1958 of this title.

953. When stipulations against right to rescind do not defeat it.—A stipulation that errors of description shall not avoid a contract, or shall be the subject of compensation, or both, does not take away the right of rescission for fraud, nor for mistake, where such mistake is in a matter essential to the inducement of the contract, and is not capable of exact and entire compensation.

954. Rescission, how effected.—Rescission, when not effected by consent, can be accomplished only by the use, on the part of the party rescinding, of reasonable diligence to comply with the following rules:

1. He must rescind promptly, upon discovering the facts which entitle him to rescind, if he is free from duress, menace, undue influence, or disability, and is aware of his right to rescind; and

2. He must restore to the other party everything of value which he has received from him under the contract; or must offer to restore the same, upon condition that such party shall do likewise, unless the latter is unable or positively refuses to do so.

CROSS-REFERENCE

Rescission of contracts, see sections 2721 to 2723 of this title.

ARTICLE 3.—ALTERATION AND CANCELATION

Sec.
961. Alteration of verbal contract.
962. Written contracts, how modified.
963. Extinction by cancelation, etc.
964. Extinction by unauthorized alteration.
965. Alteration of duplicate, not to prejudice.

961. Alteration of verbal contract.—A contract not in writing may be altered in any respect by consent of the parties, in writing, without a new consideration, and is extinguished thereby to the extent of the new alteration.

CROSS-REFERENCE

Altered writing, who to explain, see title 4, section 2032.

962. Written contracts, how modified.—A contract in writing may be altered by a contract in writing, or by an executed oral agreement, and not otherwise.

CROSS-REFERENCES

Cancelation of contracts, see sections 2731 et seq., of this title.

Parol evidence to alter writings, see section 905 of this title; and title 4, section 1874.

963. Extinction by cancelation, etc.—The destruction or cancelation of a written contract, or of the signature of the parties liable thereon, with intent to extinguish the obligation thereof, extinguishes it as to all the parties consenting to the act.

964. Extinction by unauthorized alteration.—The intentional destruction, cancelation, or material alteration of a written contract, by a party entitled to any benefit under it, or with his consent, extinguishes all the executory obligations of the contract in his favor, against parties who do not consent to the act.

965. Alteration of duplicate, not to prejudice.—Where a contract is executed in duplicate, an alteration or destruction of one copy, while the other exists, is not within the provisions of the next preceding section.

CHAPTER 33.—OBLIGATIONS IMPOSED BY LAW

Sec.
971. Abstinence from injury.
972. Fraudulent deceit.
973. Deceit, what.
974. Deceit upon the public, etc.
975. Restoration of thing wrongfully acquired.
976. When demand necessary.
977. Responsibility for willful acts, negligence, etc.
978. Other obligations.

Section 971. Abstinence from injury.—Every person is bound, without contract, to abstain from injuring the person or property of another, or infringing upon any of his rights.

972. Fraudulent deceit.—One who willfully deceives another with intent to induce him to alter his position to his injury, or risk, is liable for any damage which he thereby suffers.

CROSS-REFERENCE

Fraud, see sections 827 et seq., of this title.

973. Deceit, what.—A deceit, within the meaning of the next preceding section, is either:

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

2. The assertion, as a fact, of that which is not true, by one who has no reasonable ground for believing it to be true;

3. The suppression of a fact, by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact; or

4. A promise made without any intention of performing it.

CROSS-REFERENCE

Fraud, actual or constructive, see sections 827 et seq., of this title.

974. Deceit upon the public, etc.—One who practices a deceit with intent to defraud the public, or a particular class of persons, is deemed to have intended to defraud every individual in that class, who is actually misled by the deceit.

975. Restoration of thing wrongfully acquired.—One who obtains a thing without the consent of its owner, or by a consent afterwards rescinded, or by an unlawful exaction which the owner could not at the time prudently refuse, must restore it to the person from whom it was thus obtained, unless he has acquired a title thereto superior to that of such other person, or unless the transaction was corrupt and unlawful on both sides.

976. When demand necessary.—The restoration required by the next preceding section must be made without demand, except where a thing is obtained by mutual mistake, in which case the party obtaining the thing is not bound to return it until he has notice of the mistake.

977. Responsibility for willful acts, negligence, etc.—Everyone is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person, except so far as the latter has willfully brought the injury upon himself. Want of ordinary care on the part of the injured person shall not bar a recovery, but the damages shall be diminished by the court or jury in proportion to the want of ordinary care attributable to such person. The extent of liability in the cases covered by this section is defined by the chapter on compensatory relief.

CROSS-REFERENCE

Compensatory relief, see sections 2621 et seq., of this title.

978. Other obligations.—Other obligations are prescribed by chapters 2 to 26 of this title,

CHAPTER 34.—SALES OF GOODS

Sec.
981. Contracts to sell and sales.
982. Capacity; liabilities for necessaries.
983. Form of contract or sale.
984. Statute of frauds.
985. Existing and future goods.
986. Undivided shares.
987. Destruction of goods sold.
988. Destruction of goods contracted to be sold.
989. Definition and ascertainment of price.
990. Sale at a valuation.
991. Effect of condition.
992. Definition of express warranty.
993. Implied warranties of title.
994. Implied warranty in sale by description.
995. Implied warranties of quality.
996. Implied warranties in sale by sample.
997. No property passes until goods are ascertained.
998. Property in specific goods passes when parties so intend.
999. Rules for ascertaining intention.
1000. Reservation of right of possession or property when goods are shipped.
1001. Sale by auction.
1002. Risk of loss.
1003. Sale by person not the owner.
1004. Sale by one having a voidable title.
1005. Sale by seller in possession of goods already sold.
1006. Creditors' rights against sold goods in seller's possession.
1007. Definition of negotiable documents of title.
1008. Negotiation of negotiable documents by delivery.
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1010. Negotiable documents of title marked "Not Negotiable."
1011. Transfer of nonnegotiable documents.
1012. Who may negotiate a document.
1013. Rights of person to whom document has been negotiated.
1014. Rights of person to whom document has been transferred.
1015. Transfer of negotiable document without indorsement.
1016. Warranties on sale of documents.
1017. Indorser not a guarantor.
1018. When negotiation not impaired by fraud, mistake, or duress.
1019. Attachment or levy upon goods for which a negotiable document has been issued.

Sec.
1020. Creditor's remedies to reach negotiable documents.
1021. Seller must deliver and buyer accept goods.
1022. Delivery and payment are concurrent conditions.
1023. Place, time, and manner of delivery.
1024. Delivery of wrong quantity.
1025. Delivery in installments.
1026. Delivery to a carrier on behalf of the buyer.
1027. Right to examine the goods.
1028. What constitutes acceptance.
1029. Acceptance does not bar action for damages.
1030. Buyer is not bound to return goods wrongly delivered.
1031. Buyer's liability for failing to accept delivery.
1032. Definition of unpaid seller.
1033. Remedies of an unpaid seller.
1034. When right of lien may be exercised.
1035. Lien after part delivery.
1036. When lien is lost.
1037. Seller may stop goods on buyer's insolvency.
1038. When goods are in transit.
1039. Ways of exercising the right to stop.
1040. When and how resale may be made.
1041. When and how the seller may rescind the sale.
1042. Effect of sale of goods subject to lien or stoppage in transitu.
1043. Action for the price.
1044. Action for damages for nonacceptance of the goods.
1045. When seller may rescind contract or sale.
1046. Action for converting or detaining goods.
1047. Action for failing to deliver goods.
1048. Specific performance.
1049. Remedies for breach of warranty.
1050. Interest and special damages.
1051. Variation of implied obligations.
1052. Rights may be enforced by action.
1053. Rule for cases not provided for by this chapter.
1054. Provisions not applicable to mortgages.
1055. Definitions.
1056. Chapter does not apply to existing sales or contracts to sell.
1057. No repeal of warehouse laws.

NOTE.—This chapter was derived primarily from the Uniform Sales Act.

Section 981. Contracts to sell and sales.—1. A contract to sell goods is a contract whereby the seller agrees to transfer the property in goods to the buyer for a consideration called the price.

2. A sale of goods is an agreement whereby the seller transfers the property in goods to the buyer for a consideration called the price.

3. A contract to sell or a sale may be absolute or conditional.

4. There may be a contract to sell or a sale between one part owner and another.

982. Capacity; liabilities for necessaries.—Capacity to buy and sell is regulated by the general law concerning capacity to contract, and to transfer and acquire property. Where necessaries are sold and delivered to an infant, or to a person who by reason of mental incapacity or drunkenness is incompetent to contract, he must pay a reasonable price therefor. Necessaries in this section mean goods suitable to the condition in life of such infant or other person, and to his actual requirements at the time of delivery.

983. **Form of contract or sale.**—Subject to the provisions of this chapter and of any statute in that behalf, a contract to sell or a sale may be made in writing (either with or without seal), or by word of mouth, or partly in writing and partly by word of mouth, or may be inferred from the conduct of the parties.

984. **Statute of frauds.**—A contract to sell or a sale of any goods or choses in action of the value of $50 or upwards shall not be enforceable by action unless the buyer shall accept part of the goods or choses in action so contracted to be sold or sold, and actually receive the same, or give something in earnest to bind the contract, or in part payment, or unless some note or memorandum in writing of the contract or sale be signed by the party to be charged or his agent in that behalf.

2. The provisions of this section apply to every such contract or sale, notwithstanding that the goods may be intended to be delivered at some future time or may not at the time of such contract or sale be actually made, procured, or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof, or rendering the same fit for delivery; but if the goods are to be manufactured by the seller especially for the buyer and are not suitable for sale to others in the ordinary course of the seller's business, the provisions of this section shall not apply.

3. There is an acceptance of goods within the meaning of this section when the buyer, either before or after delivery of the goods, expresses by words or conduct his assent to becoming the owner of those specific goods.

CROSS-REFERENCE

What contracts must be written, in general, see section 886 of this title.

985. **Existing and future goods.**—1. The goods which form the subject of a contract to sell may be either existing goods, owned or possessed by the seller, or goods to be manufactured or acquired by the seller after the making of the contract to sell, in this chapter called " future goods."

2. There may be a contract to sell goods, the acquisition of which by the seller depends upon a contingency which may or may not happen.

3. Where the parties purport to effect a present sale of future goods, the agreement operates as a contract to sell the goods.

986. **Undivided shares.**—1. There may be a contract to sell or a sale of an undivided share of goods. If the parties intend to effect a present sale, the buyer, by force of the agreement, becomes an owner in common with the owner or owners of the remaining shares.

2. In the case of fungible goods, there may be a sale of an undivided share of a specific mass, though the seller purports to sell and the buyer to buy a definite number, weight or measure of the goods in the mass, and though the number, weight or measure of the

goods in the mass, is undetermined. By such a sale the buyer becomes owner in common of such a share of the mass as the number, weight, or measure bought bears to the number, weight, or measure of the mass. If the mass contains less than the number, weight, or measure bought, the buyer becomes the owner of the whole mass and the seller is bound to make good the deficiency from similar goods unless a contrary intent appears.

987. Destruction of goods sold.—1. Where the parties purport to sell specific goods, and the goods without the knowledge of the seller have wholly perished at the time when the agreement is made, the agreement is void.

2. Where the parties purport to sell specific goods, and the goods without the knowledge of the seller have perished in part or have wholly or in a material part so deteriorated in quality as to be substantially changed in character, the buyer may at his option treat the sale—

(a) As avoided, or

(b) As transferring the property in all of the existing goods or in so much thereof as have not deteriorated, and as binding the buyer to pay the full agreed price if the sale was indivisible, or to pay the agreed price for the goods in which the property passes if the sale was divisible.

988. Destruction of goods contracted to be sold.—1. Where there is a contract to sell specific goods, and subsequently, but before the risk passes to the buyer, without any fault on the part of the seller or the buyer, the goods wholly perish, the contract is thereby avoided.

2. Where there is a contract to sell specific goods, and subsequently, but before the risk passes to the buyer, without any fault of the seller or the buyer, part of the goods perish or the whole or a material part of the goods so deteriorate in quality as to be substantially changed in character, the buyer may at his option treat the contract—

(a) As avoided, or

(b) As binding the seller to transfer the property in all of the existing goods, or in so much thereof as have not deteriorated, and as binding the buyer to pay the full agreed price if the contract was indivisible, or to pay the agreed price for so much of the goods as the seller, by the buyer's option, is bound to transfer if the contract was divisible.

989. Definition and ascertainment of price.—1. The price may be fixed by the contract, or may be left to be fixed in such manner as may be agreed, or it may be determined by the course of dealing between the parties.

2. The price may be made payable in any personal property.

3. Where transferring or promising to transfer any interest in real estate constitutes the whole or part of the consideration for transferring or for promising to transfer the property in goods, this chapter shall not apply.

4. Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

990. Sale at a valuation.—1. Where there is a contract to sell or a sale of goods at a price or on terms to be fixed by a third person, and such third person without fault of the seller or the buyer, cannot or does not fix the price or terms, the contract or the sale is thereby avoided; but if the goods or any part thereof have been delivered to and appropriated by the buyer he must pay a reasonable price therefor.

2. Where such third person is prevented from fixing the price or terms by fault of the seller or the buyer, the party not in fault may have such remedies against the party in fault as are allowed by the appropriate parts of this chapter.

991. Effect of condition.—1. Where the obligation of either party to a contract to sell or a sale is subject to any condition which is not performed, such party may refuse to proceed with the contract or sale or he may waive performance of the condition. If the other party has promised that the condition should happen or be performed, such first mentioned party may also treat the nonperformance of the condition as a breach of warranty.

2. Where the property in the goods has not passed, the buyer may treat the fulfillment by the seller of his obligation to furnish goods as described and as warranted expressly or by implication in the contract to sell as a condition of the obligation of the buyer to perform his promise to accept and pay for the goods.

992. Definition of express warranty.—Any affirmation of fact or any promise by the seller relating to the goods is an express warranty if the natural tendency of such affirmation or promise is to induce the buyer to purchase the goods, and if the buyer purchases the goods relying thereon. No affirmation of the value of the goods, nor any statement purporting to be a statement of the seller's opinion only shall be construed as a warranty.

993. Implied warranties of title.—In a contract to sell or a sale, unless contrary intention appears, there is

1. An implied warranty on the part of the seller that in case of a sale he has a right to sell the goods, and that in case of a contract to sell he will have a right to sell the goods at the time when the property is to pass;

2. An implied warranty that the buyer shall have and enjoy quiet possession of the goods as against any lawful claims existing at the time of the sale;

3. An implied warranty that the goods shall be free at the time of the sale from any charge or encumbrance in favor of any third person, not declared or known to the buyer before or at the time when the contract or sale is made.

4. This section shall not, however, be held to render liable a marshal, auctioneer, mortgagee, or other person professing to sell by virtue of authority in fact or law goods in which a third person has a legal or equitable interest.

994. Implied warranty in sale by description.—Where there is a contract to sell or a sale of goods by description, there is an implied warranty that the goods shall correspond with the description and if the contract or sale be by sample, as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

995. **Implied warranties of quality.**—Subject to the provisions of this chapter and of any statute in that behalf, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract to sell or a sale, except as follows:

1. Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, and it appears that the buyer relies on the seller's skill or judgment (whether he be the grower or manufacturer or not), there is an implied warranty that the goods shall be reasonably fit for such purpose.
2. Where the goods are bought by description from a seller who deals in goods of that description (whether he be the grower or manufacturer or not), there is an implied warranty that the goods shall be of merchantable quality.
3. If the buyer has examined the goods, there is no implied warranty as regards defects which such examination ought to have revealed.
4. In the case of a contract to sell or a sale of a specified article under its patent or other trade name, there is no implied warranty as to its fitness for any particular purpose.
5. An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.
6. An express warranty or condition does not negative a warranty or condition implied under this chapter unless inconsistent therewith.

996. **Implied warranties in sale by sample.**—In the case of a contract to sell or a sale by sample:

(a) There is an implied warranty that the bulk shall correspond with the sample in quality.

(b) There is an implied warranty that the buyer shall have a reasonable opportunity of comparing the bulk with the sample, except so far as otherwise provided in subdivision 3 of section 1027 of this title.

(c) If the seller is a dealer in goods of that kind, there is an implied warranty that the goods shall be free from any defect rendering them unmerchantable which would not be apparent on reasonable examination of the sample.

997. **No property passes until goods are ascertained.**—Where there is a contract to sell unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained, but property in an undivided share of ascertained goods may be transferred as provided in section 986 of this title.

998. **Property in specific goods passes when parties so intend.**—
1. Where there is a contract to sell specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

2. For the purpose of ascertaining the intention of the parties, regard shall be had to the terms of the contract, the conduct of the parties, usages of trade, and the circumstances of the case.

999. Rules for ascertaining intention.—Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer:

Rule 1. Where there is an unconditional contract to sell specific goods, in a deliverable state, the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment, or the time of delivery, or both, be postponed.

Rule 2. Where there is a contract to sell specific goods and the seller is bound to do something to the goods, for the purpose of putting them into a deliverable state, the property does not pass until such thing be done.

Rule 3. 1. When goods are delivered to the buyer "on sale or return," or on other terms indicating an intention to make a present sale, but to give the buyer an option to return the goods instead of paying the price, the property passes to the buyer on delivery, but he may revest the property in the seller by returning or tendering the goods within the time fixed in the contract, or, if no time has been fixed, within a reasonable time.

2. When goods are delivered to the buyer on approval or on trial or on satisfaction, or other similar terms, the property therein passes to the buyer—

(a) When he signifies his approval or acceptance to the seller or does any other act adopting the transaction;

(b) If he does not signify his approval or acceptance to the seller, but retains the goods without giving notice of rejection, then if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time. What is a reasonable time is a question of fact.

Rule 4. 1. Where there is a contract to sell unascertained or future goods by description, and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer, or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be expressed or implied, and may be given either before or after the appropriation is made.

2. Where, in pursuance of a contract to sell, the seller delivers the goods to the buyer, or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to or holding for the buyer, he is presumed to have unconditionally appropriated the goods to the contract, except in the cases provided for in the next rule and in section 1000 of this title. This presumption is applicable, although by the terms of the contract the buyer is to pay the price before receiving delivery of the goods and the goods are marked with the words "collect on delivery" or their equivalents.

Rule 5. If the contract to sell requires the seller to deliver the goods to the buyer, or at a particular place, or to pay the freight or cost of transportation to the buyer, or to a particular place, the property does not pass until the goods have been delivered to the buyer or reached the place agreed upon.

1000. Reservation of right of possession or property when goods are shipped.—1. Where there is a contract to sell specific goods, or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of possession or property in the goods until certain conditions have been fulfilled. The right of possession or property may be thus reserved notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer.

2. Where goods are shipped, and by the bill of lading the goods are deliverable to the seller or his agent, or to the order of the seller or of his agent, the seller thereby reserves the property in the goods. But if, except for the form of the bill of lading the property would have passed to the buyer on shipment of the goods, the seller's property in the goods shall be deemed to be only for the purpose of securing performance by the buyer of his obligations under the contract.

3. Where goods are shipped, and by the bill of lading the goods are deliverable to the order of the buyer or of his agent, but possession of the bill of lading is retained by the seller or his agent, the seller thereby reserves a right to the possession of the goods as against the buyer.

4. Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading together to the buyer to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honor the bill of exchange, and if he wrongfully retains the bill of lading he acquires no added right thereby. If, however, the bill of lading provides that the goods are deliverable to the buyer or to the order of the buyer, or is indorsed in blank, or to the buyer by the consignee named therein, one who purchases in good faith, for value, the bill of lading, or goods from the buyer will obtain the property in the goods, although the bill of exchange has not been honored, provided that such purchaser has received delivery of the bill of lading indorsed by the consignee named therein, or of the goods, without notice of the facts making the transfer wrongful.

1001. Sale by auction.—In the case of sale by auction—

1. Where goods are put up for sale by auction in lots each lot is the subject of a separate contract of sale.

2. A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer, or in other customary manner. Until such announcement is made, any bidder may retract his bid; and the auctioneer may withdraw the goods from sale unless the auction has been announced to be without reserve.

3. A right to bid may be reserved expressly by or on behalf of the seller.

4. Where notice has not been given that a sale by auction is subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ or induce any person to bid at such sale on his behalf, or for the auctioneer to employ or induce

any person to bid at such sale on behalf of the seller or knowingly to take any bid from the seller or any person employed by him. Any sale contravening this rule may be treated as fraudulent by the buyer.

1002. Risk of loss.—Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not, except that—

(a) Where delivery of goods has been made to the buyer, or to a bailee for the buyer, in pursuance of the contract and the property in the goods has been retained by the seller merely to secure performance by the buyer of his obligations under the contract, the goods are at the buyer's risk from the time of such delivery.

(b) Where delivery has been delayed through the fault of either buyer or seller the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault.

1003. Sale by person not the owner.—1. Subject to the provisions of this chapter, where goods are sold by a person who is not the owner thereof, and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.

2. Nothing in this chapter, however, shall affect—

(a) The provisions of any factors' acts, recording acts, or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof.

(b) The validity of any contract to sell or sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction.

1004. Sale by one having a voidable title.—Where the seller of goods has a voidable title thereto, but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith, for value, and without notice of the seller's defect of title.

1005. Sale by seller in possession of goods already sold.—Where a person having sold goods continues in possession of the goods, or of negotiable documents of title to the goods, the delivery or transfer by that person, or by an agent acting for him, of the goods or documents of title under any sale, pledge, or other disposition thereof, to any person receiving and paying value for the same in good faith and without notice of the previous sale, shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

1006. Creditors' rights against sold goods in seller's possession.—Where a person having sold goods continues in possession of the goods, or of negotiable documents of title to the goods and such retention of possession is fraudulent in fact or is deemed fraudulent under any rule of law, a creditor or creditors of the seller may treat the sale as void.

1007. Definition of negotiable documents of title.—A document of title in which it is stated that the goods referred to therein will be delivered to the bearer, or to the order of any person named in such document is a negotiable document of title.

1008. Negotiation of negotiable documents by delivery.—A negotiable document of title may be negotiated by delivery—

(a) Where, by the terms of the document, the carrier, warehouseman, or other bailee issuing the same undertakes to deliver the goods to the bearer; or

(b) Where, by the terms of the document, the carrier, warehouseman, or other bailee issuing the same undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the document has indorsed it in blank or to bearer.

Where, by the terms of a negotiable document of title, the goods are deliverable to bearer or where a negotiable document of title has been indorsed in blank or to bearer, any holder may indorse the same to himself or to any other specified person, and in such case the document shall thereafter be negotiated only by the indorsement of such indorsee.

1009. Negotiation of negotiable documents by indorsement.—A negotiable document of title may be negotiated by the indorsement of the person to whose order the goods are by the terms of the document deliverable. Such indorsement may be in blank, to bearer or to a specified person. If indorsed to a specified person, it may be again negotiated by the indorsement of such person in blank, to bearer or to another specified person. Subsequent negotiation may be made in like manner.

1010. Negotiable documents of title marked "not negotiable."—If a document of title which contains an undertaking by a carrier, warehouseman, or other bailee to deliver the goods to the bearer, to a specified person or order, or to the order of a specified person, or which contains words of like import, has placed upon it the words "not negotiable", "nonnegotiable", or the like, such a document may nevertheless be negotiated by the holder and is a negotiable document of title within the meaning of this chapter. But nothing in this chapter contained shall be construed as limiting or defining the effect upon the obligations of the carrier, warehouseman, or other bailee issuing a document of title of placing thereon the words "not negotiable", "nonnegotiable", or the like.

1011. Transfer of nonnegotiable documents.—A document of title which is not in such form that it can be negotiated by delivery may be transferred by the holder by delivery to a purchaser or donee. A nonnegotiable document cannot be negotiated, and the indorsement of such a document gives the transferee no additional right.

1012. Who may negotiate a document.—A negotiable document of title may be negotiated—

(a) By the owner thereof, or

(b) By any person to whom the possession or custody of the document has been entrusted by the owner, if, by the terms of the document the bailee issuing the document undertakes to deliver the goods to the order of the person to whom the possession or custody of the document has been entrusted, or if at the time of such entrusting the document is in such form that it may be negotiated by delivery.

1013. Rights of person to whom document has been negotiated.—A person to whom a negotiable document of title has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the document to him had or had ability to convey to a purchaser in good faith for value and also such title to the goods as the person to whose order the goods were to be delivered by the terms of the document had or had ability to convey to a purchaser in good faith for value, and

(b) The direct obligation of the bailee issuing the document to hold possession of the goods for him according to the terms of the document as fully as if such bailee had contracted directly with him.

1014. Rights of person to whom document has been transferred.—A person to whom a document of title has been transferred, but not negotiated, acquires thereby, as against the transferor, the title to the goods, subject to the terms of any agreement with the transferor. If the document is nonnegotiable, such person also acquires the right to notify the bailee who issued the document of the transfer thereof, and thereby to acquire the direct obligation of such bailee to hold possession of the goods for him according to the terms of the document. Prior to the notification of such bailee by the transferor or transferee of a nonnegotiable document of title, the title of the transferee to the goods and the right to acquire the obligation of such bailee may be defeated by the levy of an attachment of execution upon the goods by a creditor of the transferor, or by a notification to such bailee by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

1015. Transfer of negotiable document without indorsement.—Where a negotiable document of title is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the document unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made.

1016. Warranties on sale of document.—A person who for value negotiates or transfers a document of title by indorsement or delivery, including one who assigns for value a claim secured by a document of title unless a contrary intention appears, warrants:

(a) That the document is genuine;

(b) That he has a legal right to negotiate or transfer it;

(c) That he has knowledge of no fact which would impair the validity or worth of the document; and

(d) That he has a right to transfer the title to the goods and that the goods are merchantable or fit for a particular purpose, whenever such warranties would have been implied if the contract of the parties had been to transfer without a document of title the goods represented thereby.

1017. Indorser not a guarantor.—The indorsement of a document of title shall not make the indorser liable for any failure on the part of the bailee who issued the document or previous indorsers thereof to fulfill their respective obligations.

1018. When negotiation not impaired by fraud, mistake, or duress.—The validity of the negotiation of a negotiable document of title is not impaired by the fact that the negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the document was induced by fraud, mistake or duress to entrust the possession or custody thereof to such person, if the person to whom the document was negotiated or a person to whom the document was subsequently negotiated paid value therefor, without notice of the breach of duty, or fraud, mistake or duress.

1019. Attachment or levy upon goods for which a negotiable document has been issued.—If goods are delivered to a bailee by the owner or by a person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner and a negotiable document of title is issued for them they cannot thereafter, while in the possession of such bailee, be attached by garnishment or otherwise be levied upon under an execution unless the document be first surrendered to the bailee or its negotiation enjoined. The bailee shall in no case be compelled to deliver up the actual possession of the goods until the document is surrendered to him or impounded by the court.

1020. Creditor's remedies to reach negotiable documents.—A creditor whose debtor is the owner of a negotiable document of title shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such document or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot be readily attached or levied upon by ordinary legal process.

1021. Seller must deliver and buyer accept goods.—It is the duty of the seller to deliver the goods, and of the buyer to accept and pay for them, in accordance with the terms of the contract to sell or sale.

1022. Delivery and payment are concurrent conditions.—Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions; that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods.

1023. Place, time, and manner of delivery.—1. Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, express or implied, or usage of trade to the contrary, the place of delivery is the seller's place of business if he have one, and if not his residence; but in case of a contract to sell or a sale of specific goods, which to the knowledge of the parties when the contract or the sale was made were in some other place, then that place is the place of delivery.

2. Where by a contract to sell or a sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

3. Where the goods at the time of sale are in the possession of a third person, the seller has not fulfilled his obligation to deliver to the buyer unless and until such third person acknowledges to the buyer that he holds the goods on the buyer's behalf; but as against all others than the seller the buyer shall be regarded as having received delivery from the time when such third person first has notice of the sale. Nothing in this section, however, shall affect the operation of the issue or transfer of any document of title to goods.

4. Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

5. Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state must be borne by the seller.

1024. Delivery of wrong quantity.—1. Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts or retains the goods so delivered, knowing that the seller is not going to perform the contract in full, he must pay for them at contract rate. If, however, the buyer has used or disposed of the goods delivered before he knows that the seller is not going to perform his contract in full, the buyer shall not be liable for more than the fair value to him of the goods so received.

2. Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered he must pay for them at the contract rate.

3. Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or he may reject the whole.

4. The provisions of this section are subject to any usage of trade, special agreement, or course of dealing between the parties.

1025. Delivery in installments.—1. Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by installments.

2. Where there is a contract to sell goods to be delivered by stated installments, which are to be separately paid for, and the seller makes defective deliveries in respect of one or more installments, or the buyer neglects or refuses to take delivery of or pay for one or more installments, it depends in each case on the terms of the contract and the circumstances of the case whether the breach of contract is so material as to justify the injured party in refusing to proceed further and suing for damages for breach of the entire

contract, or whether the breach is severable, giving rise to a claim for compensation, but not to a right to treat the whole contract as broken.

1026. Delivery to a carrier on behalf of the buyer.—1. Where, in pursuance of a contract to sell or a sale, the seller is authorized or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer is deemed to be a delivery of the goods to the buyer, except in the cases provided for in section 999 of this title, rule five, or unless a contrary intent appears.

2. Unless otherwise authorized by the buyer, the seller must make such contract with the carrier on behalf of the buyer as may be reasonable, having regard to the nature of the goods and the other circumstances of the case. If the seller omit so to do, and the goods are lost or damaged in course of transit, the buyer may decline to treat the delivery to the carrier as a delivery to himself, or may hold the seller responsible in damages.

3. Unless otherwise agreed, where goods are sent by the seller to the buyer under circumstances in which the seller knows or ought to know that it is usual to insure, the seller must give such notice to the buyer as may enable him to insure them during their transit, and, if the seller fails to do so, the goods shall be deemed to be at his risk during such transit.

1027. Right to examine the goods.—1. Where goods are delivered to the buyer, which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity to examine them for the purpose of ascertaining whether they are in conformity with the contract.

2. Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

3. Where goods are delivered to a carrier by the seller, in accordance with an order from or agreement with the buyer, upon the terms that the goods shall not be delivered by the carrier to the buyer until he has paid the price, whether such terms are indicated by marking the goods with the words "collect on delivery," or otherwise, the buyer is not entitled to examine the goods before payment of the price in the absence of agreement permitting such examination.

1028. What constitutes acceptance.—The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.

1029. Acceptance does not bar action for damages.—In the absence of express or implied agreement of the parties, acceptance of the goods by the buyer shall not discharge the seller from liability in damages or other legal remedy for breach of any promise or warranty in the contract to sell or the sale. But, if, after acceptance of the goods, the buyer fails to give notice to the seller of the breach of any promise or warranty within a reasonable time after the buyer knows, or ought to know, of such breach, the seller shall not be liable therefor.

1030. Buyer is not bound to return goods wrongly delivered.— Unless otherwise agreed, where goods are delivered to the buyer, and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he notifies the seller that he refuses to accept them.

1031. Buyer's liability for failing to accept delivery.—When the seller is ready and willing to deliver the goods, and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods. If the neglect or refusal of the buyer to take delivery amounts to a repudiation or breach of the entire contract, the seller shall have the rights against the goods and on the contract hereinafter provided in favor of the seller when the buyer is in default.

1032. Definition of unpaid seller.—1. The seller of goods is deemed to be an unpaid seller within the meaning of this chapter:

(a) When the whole of the price has not been paid or tendered.

(b) When a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has been broken by reason of the dishonor of the instrument, the insolvency of the buyer, or otherwise.

2. In this part of this chapter the term " seller " includes an agent of the seller to whom the bill of lading has been indorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price, or any other person who is in the position of a seller.

1033. Remedies of an unpaid seller.—1. Subject to the provisions of this chapter, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of the goods, as such has:

(a) A lien on the goods or right to retain them for the price while he is in possession of them;

(b) In case of the insolvency of the buyer, a right of stopping the goods in transitu after he has parted with the possession of them;

(c) A right of resale as limited by this chapter;

(d) A right to rescind the sale as limited by this chapter.

2. Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and coextensive with his rights of lien and stoppage in transitu where the property has passed to the buyer.

1034. When right of lien may be exercised.—1. Subject to the provisions of this chapter, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely:

(a) Where the goods have been sold without any stipulation as to credit;

(b) Where the goods have been sold on credit, but the term of credit has expired;
(c) Where the buyer becomes insolvent.
2. The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

1035. Lien after part delivery.—Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien on the remainder, unless such part delivery has been made under such circumstances as to show an intent to waive the lien or right of retention.

1036. When lien is lost.—1. The unpaid seller of goods loses his lien thereon:
(a) When he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the property in the goods or the right to the possession thereof;
(b) When the buyer or his agent lawfully obtains possession of the goods;
(c) By waiver thereof.
2. The unpaid seller of goods, having a lien thereon, does not lose his lien by reason only that he has obtained judgment or decree for the price of the goods.

1037. Seller may stop goods on buyer's insolvency.—Subject to the provisions of this chapter, when the buyer of goods is or becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transitu, that is to say, he may resume possession of the goods at any time while they are in transit, and he will then become entitled to the same rights in regard to the goods as he would have had if he had never parted with the possession.

1038. When goods are in transit.—1. Goods are in transit within the meaning of the next preceding section:
(a) From the time when they are delivered to a carrier by land or water, or other bailee for the purpose of transmission to the buyer, until the buyer, or his agent in that behalf, takes delivery of them from such carrier or other bailee;
(b) If the goods are rejected by the buyer, and the carrier or other bailee continues in possession of them, even if the seller has refused to receive them back.
2. Goods are no longer in transit within the meaning of the next preceding section:
(a) If the buyer, or his agent in that behalf, obtains delivery of the goods before their arrival at the appointed destination;
(b) If, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent; and it is immaterial that a further destination for the goods may have been indicated by the buyer;
(c) If the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf.

3. If the goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent of the buyer.

4. If part delivery of the goods has been made to the buyer, or his agent in that behalf, the remainder of the goods may be stopped in transitu, unless such part delivery has been made under such circumstances as to show an agreement with the buyer to give up possession of the whole of the goods.

1039. Ways of exercising the right to stop.—1. The unpaid seller may exercise his right of stoppage in transitu either by obtaining actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effectual, must be given at such time and under such circumstances that the principal, by the exercise of reasonable diligence, may prevent a delivery to the buyer.

2. When notice of stoppage in transitu is given by the seller to the carrier, or other bailee in possession of the goods, he must redeliver the goods to, or according to the directions of, the seller.

The expenses of such delivery must be borne by the seller. If. however, a negotiable document of title representing the goods has been issued by the carrier or other bailee, he shall not be obliged to deliver or justified in delivering the goods to the seller unless such document is first surrendered for cancelation.

1040. When and how resale may be made.—1. Where the goods are of a perishable nature, or where the seller expressly reserves the right of resale in case the buyer should make default, or where the buyer has been in default in the payment of the price an unreasonable time, an unpaid seller having a right of lien or having stopped the goods in transitu may resell the goods. He shall not thereafter be liable to the original buyer upon the contract to sell or the sale or for any profit made by such resale, but may recover from the buyer damages for any loss occasioned by the breach of the contract or the sale.

2. Where a resale is made, as authorized in this section, the buyer acquires a good title as against the original buyer.

3. It is not essential to the validity of a resale that notice of an intention to resell the goods be given by the seller to the original buyer. But where the right to resell is not based on the perishable nature of the goods or upon an express provision of the contract or the sale, the giving or failure to give such notice shall be relevant in any issue involving the question whether the buyer had been in default an unreasonable time before the resale was made.

4. It is not essential to the validity of a resale that notice of the time and place of such resale should be given by the seller to the original buyer.

5. The seller is bound to exercise reasonable care and judgment in making a resale, and subject to this requirement may make a resale either by public or private sale.

1041. When and how the seller may rescind the sale.—1. An unpaid seller having a right of lien or having stopped the goods in transitu, may rescind the transfer of title and resume the property in the goods, where he expressly reserved the right to do so in case the buyer should make default, or where the buyer has been in default in the payment of the price an unreasonable time. The seller shall not thereafter be liable to the buyer upon the contract to sell or the sale, but may recover from the buyer damages for any loss occasioned by the breach of the contract or the sale.

2. The transfer of title shall not be held to have been rescinded by an unpaid seller until he has manifested by notice to the buyer or by some other overt act an intention to rescind. It is not necessary that such overt act should be communicated to the buyer but the giving or failure to give notice to the buyer of the intention to rescind shall be relevant in any issue involving the question whether the buyer had been in default an unreasonable time before the right of rescission was asserted.

1042. Effect of sale of goods subject to lien or stoppage in transitu.—Subject to the provisions of this chapter, the unpaid seller's right of lien or stoppage in transitu is not affected by any sale, or other disposition of the goods which the buyer may have made, unless the seller has assented thereto. If, however, a negotiable document of title has been issued for goods, no seller's lien or right of stoppage in transitu shall defeat the right of any purchaser for value in good faith to whom such document has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier, or other bailee who issued such document, of the seller's claim to a lien or right of stoppage in transitu.

1043. Action for the price.—1. Where, under a contract to sell or a sale, the property in the goods has passed to the buyer, and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract or the sale, the seller may maintain an action against him for the price of the goods.

2. Where, under a contract to sell or a sale, the price is payable on a day certain, irrespective of delivery or of transfer of title, and the buyer wrongfully neglects or refuses to pay such price, the seller may maintain an action for the price, although the property in the goods has not passed, and the goods have not been appropriated to the contract. But it shall be a defense to such an action that the seller at any time before judgment in such action has manifested an inability to perform the contract or the sale on his part or an intention not to perform it.

3. Although the property in the goods has not passed, if they can not readily be resold for a reasonable price, and if the provisions of subdivision 4 of the section next following are not applicable, the seller may offer to deliver the goods to the buyer, and if the buyer refuses to receive them, may notify the buyer that the goods are thereafter held by the seller as bailee for the buyer. Thereafter the seller may treat the goods as the buyer's and may maintain an action for the price.

1044. Action for damages for nonacceptance of the goods.—1. Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against him for damages for nonacceptance.

2. The measure of damages is the estimated loss directly and naturally resulting, in the ordinary course of events, from the buyer's breach of contract.

3. Where there is an available market for the goods in question, the measure of damages is, in the absence of special circumstances, showing proximate damage of a greater amount, the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted, or, if no time was fixed for acceptance, then at the time of the refusal to accept.

4. If, while labor or expense of material amount are necessary on the part of the seller to enable him to fulfill his obligations under the contract to sell or the sale, the buyer repudiates the contract or the sale, or notifies the seller to proceed no further therewith, the buyer shall be liable to the seller for no greater damages than the seller would have suffered if he did nothing toward carrying out the contract or the sale after receiving notice of the buyer's repudiation or countermand. The profit the seller would have made if the contract or the sale had been fully performed shall be considered in estimating such damages.

1045. When seller may rescind contract or sale.—Where the goods have not been delivered to the buyer, and the buyer has repudiated the contract to sell or sale, or has manifested his inability to perform his obligations thereunder, or has committed a material breach thereof, the seller may totally rescind the contract or the sale by giving notice of his election so to do to the buyer.

1046. Action for converting or detaining goods.—Where the property in the goods has passed to the buyer and the seller wrongfully neglects or refuses to deliver the goods, the buyer may maintain any action allowed by law to the owner of goods of similar kind when wrongfully converted or withheld.

1047. Action for failing to deliver goods.—1. Where the property in the goods has not passed to the buyer, and the seller wrongfully neglects or refuses to deliver the goods, the buyer may maintain an action against the seller for damages for nondelivery.

2. The measure of damages is the loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.

3. Where there is an available market for the goods in question, the measure of damages, in the absence of special circumstances showing proximate damages of a greater amount, is the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver.

1048. Specific performance.—Where the seller has broken a contract to deliver specific or ascertained goods, a court having the powers of a court of equity may, if it thinks fit, on the application of the buyer, by its judgment or decree, direct that the contract shall be performed specifically, without giving the seller the option of retaining the goods on payment of damages. The judgment or decree may be unconditional, or upon such terms and conditions as to damages, payment of the price and otherwise, as to the court may seem just.

CROSS-REFERENCE

Specific performance of obligations generally, see sections 2701 et seq., of this title.

1049. Remedies for breach of warranty.—1. Where there is a breach of warranty by the seller, the buyer may, at his election:

(a) Accept or keep the goods and set up against the seller the breach of warranty by way of recoupment in diminution or extinction of the price;

(b) Accept or keep the goods and maintain an action against the seller for damages for the breach of warranty;

(c) Refuse to accept the goods, if the property therein has not passed, and maintain an action against the seller for damages for the breach of warranty;

(d) Rescind the contract to sell or the sale and refuse to receive the goods, or if the goods have already been received, return them or offer to return them to the seller and recover the price or any part thereof which has been paid.

2. When the buyer has claimed and been granted a remedy in any one of these ways, no other remedy can thereafter be granted.

3. Where the goods have been delivered to the buyer, he cannot rescind the sale if he knew of the breach of warranty when he accepted the goods, or if he fails to notify the seller within a reasonable time of the election to rescind, or if he fails to return or to offer to return the goods to the seller in substantially as good condition as they were in at the time the property was transferred to the buyer. But if deterioration or injury of the goods is due to the breach of warranty, such deterioration or injury shall not prevent the buyer from returning or offering to return the goods to the seller and rescinding the sale.

4. Where the buyer is entitled to rescind the sale and elects to do so, the buyer shall cease to be liable for the price upon returning or offering to return the goods. If the price or any part thereof has already been paid, the seller shall be liable to repay so much thereof as has been paid, concurrently with the return of the goods, or immediately after an offer to return the goods in exchange for repayment of the price.

5. Where the buyer is entitled to rescind the sale and elects to do so, if the seller refuses to accept an offer of the buyer to return the goods, the buyer shall thereafter be deemed to hold the goods as bailee for the seller, but subject to a lien to secure the repayment of any portion of the price which has been paid, and with the remedies for the enforcement of such lien allowed to an unpaid seller by section 1033 of this title.

6. The measure of damages for breach of warranty is the loss directly and naturally resulting, in the ordinary course of events, from the breach of warranty.

7. In the case of breach of warranty of quality, such loss, in the absence of special circumstances showing proximate damage of a greater amount, is the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

1050. Interest and special damages.—Nothing in this chapter shall affect the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover money paid where the consideration for the payment of it has failed.

1051. Variation of implied obligations.—Where any right, duty, or liability would arise under a contract to sell or a sale by implication of law, it may be negatived, or varied by express agreement or by the course of dealing between the parties, or by customs, if the custom be such as to bind both parties to the contract or the sale.

1052. Rights may be enforced by action.—Where any right, duty, or liability is declared by this chapter, it may, unless otherwise by this chapter provided, be enforced by action.

1053. Rule for cases not provided for by this chapter.—In any case not provided for in this chapter, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent and to the effect of fraud, misrepresentation, duress or coercion, mistake, or other invalidating cause, shall continue to apply to contracts to sell and sales of goods.

1054. Provisions not applicable to mortgages.—The provisions of this chapter relating to contracts to sell and to sales do not apply, unless so stated, to any transaction in the form of a contract to sell or a sale which is intended to operate by way of mortgage, pledge, charge, or other security.

1055. Definitions.—1. In this chapter, unless the context or subject matter otherwise requires:

"Action" includes counterclaim, set-off, and suit in equity.

"Buyer" means a person who buys or agrees to buy goods or any legal successor in interest of such person.

"Defendant" includes a plaintiff against whom a right of set-off or counterclaim is asserted.

"Delivery" means voluntary transfer of possession from one person to another.

"Divisible contract to sell or sale" means a contract to sell or a sale in which by its terms the price for a portion or portions of the goods less than the whole is fixed or ascertainable by computation.

"Document of title to goods" includes any bill of lading, dock warrant, warehouse receipt or order for the delivery of goods, or any other document used in the ordinary course of business in the sale or transfer of goods, as proof of the possession or control of the goods, or authorizing or purporting to authorize the possessor of the document to transfer or receive, either by indorsement or by delivery, goods represented by such document.

"Fault" means wrongful act or default.

"Fungible goods" means goods of which any unit is from its nature or by mercantile usage treated as the equivalent of any other unit.

"Future goods" means goods to be manufactured or acquired by the seller after the making of the contract of sale.

"Goods" includes all chattels personal other than things in action and money. The term includes emblements, industrial growing crops, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

"Order" in sections of this chapter relating to documents of title means an order by indorsement on the document.

"Person" includes a corporation or partnership or two or more persons having a joint or common interest.

"Plaintiff" includes defendant asserting a right of set-off or counterclaim.

"Property" means the general property in goods, and not merely a special property.

"Purchases" includes taking as a mortgagee or as a pledgee.

"Purchaser" includes mortgagee and pledgee.

"Quality of goods" includes their state or condition.

"Sale" includes a bargain and sale as well as a sale and delivery.

"Seller" means a person who sells or agrees to sell goods, or any legal successor in the interest of such person.

"Specific goods" means goods identified and agreed upon at the time a contract to sell or a sale is made.

2. A thing is done "in good faith" within the meaning of this chapter when it is in fact done honestly, whether it be done negligently or not.

3. A person is insolvent within the meaning of this chapter who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due, whether he has committed an act of bankruptcy or not, and whether he is insolvent within the meaning of the federal bankruptcy law or not.

4. Goods are in a "deliverable state" within the meaning of this chapter when they are in such a state that the buyer would, under the contract, be bound to take delivery of them.

1056. Chapter does not apply to existing sales or contracts to sell.—None of the provisions of this chapter shall apply to any sale, or to any contract to sell, made prior to the taking effect of this chapter.

1057. No repeal of warehouse laws.—Nothing in this chapter shall be construed to repeal or limit any of the provisions of sections 1141 to 1193 of this title.

CHAPTER 35.—CONDITIONAL SALES

Sec.
1061. Definitions.
1062. Primary rights of seller.
1063. Primary rights of buyer.
1064. Conditional sales valid except as otherwise provided.
1065. Conditional sales void as to certain persons.
1066. Place of filing.
1067. Conditional sale of goods for resale.
1068. Filing.
1069. Refiling.
1070. Cancelation of contract.
1071. Prohibition of removal or sale without notice.
1072. Fraudulent injury, concealment, removal, or sale.
Sec.
1073. Retaking possession.
1074. Notice of intention to retake.
1075. Redemption.
1076. Compulsory resale by seller.
1077. Resale at option of parties.
1078. Proceeds of resale.
1079. Deficiency on resale.
1080. Rights of parties where there is no resale.
1081. Election of remedies.
1082. Recovery of part payments.
1083. Waiver of statutory protection.
1084. Loss and increase.
1085. Rules for cases not provided for.

NOTE.—This chapter was derived from the Uniform Conditional Sales Act.

Section 1061. Definitions.—In this chapter "conditional sale" means (1) any contract for the sale of goods under which possession is delivered to the buyer and the property in the goods is to vest in the buyer at a subsequent time upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (2) any contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value of the goods, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming the owner of such goods upon full compliance with the terms of the contract.

"Buyer" means the person who buys or hires the goods covered by the conditional sale, or any legal successor in interest of such person.

"Goods" means all chattels personal other than things in action and money, and includes emblements, industrial growing crops, and things attached to or forming a part of land which are agreed to be severed before sale or under the conditional sale.

"Performance of the condition" means the occurrence of the event upon which the property in the goods is to vest in the buyer, whether such event is the performance of an act by the buyer or the happening of a contingency.

"Person" includes an individual, partnership, corporation, and any other association.

"Purchase" includes mortgage and pledge.

"Purchaser" includes mortgagee and pledgee.

"Seller" means the person who sells or leases the goods covered by the conditional sale, or any legal successor in interest of such person.

1062. Primary rights of seller.—The buyer shall be liable to the seller for the purchase price, or for installments thereof, as the same shall become due, and for breach of all promises made by him in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

1063. Primary rights of buyer.—The buyer shall have the right when not in default to retain possession of the goods, and he shall also have the right to acquire the property in the goods on the performance of the conditions of the contract. The seller shall be liable to the buyer for the breach of all promises and warranties, express or implied, made in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

1064. Conditional sales valid except as otherwise provided.—Every provision in a conditional sale reserving property in the seller after possession of the goods is delivered to the buyer, shall be valid as to all persons, except as hereinafter otherwise provided.

1065. Conditional sales void as to certain persons.—Every provision in a conditional sale reserving property in the seller shall be void as to any purchaser from or creditor of the buyer, who, without notice of such provision, purchases the goods or acquires by attachment or levy a lien upon them, before the contract or a copy thereof shall be filed as hereinafter provided. This section shall not apply to conditional sales of goods for resale.

1066. Place of filing.—The conditional sale contract or a copy thereof shall be filed in the office of the registrar of property of the Canal Zone.

CROSS-REFERENCE

Clerk of district court as ex-officio registrar of property, see title 4, section 967.

1067. Conditional sale of goods for resale.—When goods are delivered under a conditional sale contract and the seller expressly or impliedly consents that the buyer may resell them prior to performance of the condition, the same shall be valid whether filed or not except that the reservation of property shall be void against purchasers from the buyer in good faith for value and without actual knowledge of the condition of such contract.

1068. Filing.—The registrar of property shall mark upon contract or copy filed with him the day and hour of filing and shall file the contract or copy in his office for public inspection. He shall keep a separate book in which he shall enter the names of the seller and buyer, the date of the contract, the day and hour of filing, a brief description of the goods, the price named in the contract, and the date of cancellation thereof. Such book shall be indexed under the names of both seller and buyer. For filing and entering such contract or copy, or any assignment of such a contract, the registrar shall be entitled to a fee of 50 cents.

1069. Refiling.—The filing of conditional sale contracts provided for in sections 1065 and 1066 of this title shall be valid for a period of three years only. The validity of the filing may in each case be extended for successive additional periods of one year from the date of refiling by filing a copy of the original contract within thirty days next preceding the expiration of each period, with a statement attached signed by the seller, showing that the contract is in force and the amount remaining to be paid thereon. Such copy, with statement attached, shall be filed and entered in the same manner as a contract or copy filed and entered for the first time, and the registrar of property shall be entitled to a like fee as upon the original filing.

1070. Cancelation of contract.—After the performance of the condition, upon written demand delivered personally or by registered mail by the buyer or any other person having an interest in the goods, the seller shall execute, acknowledge, and deliver to the demandant a statement that the condition in the contract has been performed. If for ten days after such demand the seller fails to mail or deliver such a statement of satisfaction, he shall forfeit to the demandant $5 and be liable for all damages suffered. Upon presentation of such statement of satisfaction the registrar of property shall file the same and note the cancellation of the contract and the date thereof on the margin of the page where the contract has been entered. For filing and entering the statement of satisfaction the filing officer shall be entitled to a fee of 25 cents.

1071. Prohibition of removal or sale without notice.—Unless the contract otherwise provides, the buyer may, without the consent of the seller, remove the goods from the Canal Zone and sell, mortgage, or otherwise dispose of his interest in them; but prior to the performance of the condition, no such buyer shall remove the goods from the Canal Zone, except for temporary uses for a period of not more than thirty days, unless the buyer not less than thirty days before such removal shall give the seller personally or by registered mail written notice of the place to which the goods are to be removed and the approximate time of such intended removal; nor prior to the performance of the conditions shall the buyer sell, mortgage, or otherwise dispose of his interest in the goods, unless he, or the person to whom he is about to sell, mortgage, or otherwise dispose of the same, shall notify the seller in writing personally or by registered mail of the name and address of the person to whom his interest in the goods is about to be sold, mortgaged, or otherwise transferred, not less than ten days before such sale, mortgage, or other disposal. If any buyer does so remove the goods, or does so sell, mortgage, or otherwise dispose of his interest in them without such notice or in violation of the contract, the seller may retake possession of the goods and deal with them as in case of default in payment of part or all of the purchase price.

1072. Fraudulent injury, concealment, removal, or sale.—When, prior to the performance of the condition, the buyer maliciously or with intent to defraud, shall injure, destroy, or conceal the goods, or remove them from the Canal Zone, without having given the notice required by the next preceding section, or shall sell, mortgage, or otherwise dispose of such goods under claim of full ownership, he shall be guilty of a crime and upon conviction thereof shall be imprisoned in jail for not more than one year or be fined not more than $500 or both.

1073. Retaking possession.—When the buyer shall be in default in the payment of any sum due under the contract, or in the performance of any other condition which the contract requires him to perform in order to obtain the property in the goods, or in the performance of any promise, the breach of which is by the contract expressly made a ground for the retaking of the goods, the seller may retake possession thereof. Unless the goods can be retaken without breach of the peace, they shall be retaken by legal process; but nothing herein shall be construed to authorize a violation of the criminal law.

1074. Notice of intention to retake.—Not more than forty nor less than twenty days prior to the retaking, the seller, if he so desires, may serve upon the buyer personally or by registered mail a notice of intention to retake the goods on account of the buyer's default. The notice shall state the default and the period at the end of which the goods will be retaken, and shall briefly and clearly state what the buyer's rights under this chapter will be in case they are retaken. If the notice is so served and the buyer does not perform the obligations in which he has made default before the day set for retaking, the seller may retake the goods and hold them subject to the provisions of sections 1076 to 1080 of this title regarding resale, but without any right of redemption.

1075. Redemption.—If the seller does not give the notice of intention to retake described in the next preceding section, he shall retain the goods for ten days after the retaking within the Canal Zone, during which period the buyer, upon payment or tender of the amount due under the contract at the time of retaking and interest, or upon performance or tender of performance of such other condition as may be named in the contract as precedent to the passage of the property in the goods, or upon performance or tender of performance of any other promise for the breach of which the goods were retaken, and upon payment of the expenses of retaking, keeping, and storage, may redeem the goods and become entitled to take possession of them and to continue in the performance of the contract as if no default had occurred. Upon written demand delivered personally or by registered mail by the buyer, the seller shall furnish to the buyer a written statement of the sum due under the contract and the expense of retaking, keeping, and storage. For failure to furnish such statement within a reasonable time after demand, the seller shall forfeit to the buyer $10 and also be liable to him for all damages suffered because of such failure. If the goods are perishable so that retention for ten days as herein prescribed would result in their destruction or substantial injury, the provisions of this section shall not apply, and the seller may resell the goods immediately upon their retaking.

1076. Compulsory resale by seller.—If the buyer does not redeem the goods within ten days after the seller has retaken possession, and the buyer has paid at least 50 per centum of the purchase price at the time of the retaking the seller shall sell them at public auction in the Canal Zone, such sale to be held not more than thirty days after the retaking. The seller shall give to the buyer not less than ten days' written notice of the sale, either personally or by registered mail, directed to the buyer at his last known place of business or residence. The seller shall also give notice of the sale by at least three notices posted in different public places within the Zone, at least five days before the sale. If at the time of the retaking $500 or more has been paid on the purchase price, the seller shall also give notice of the sale at least five days before the sale by publication in a newspaper having a general circulation within the Canal Zone. The seller may bid for the goods at the resale.

1077. Resale at option of parties.—If the buyer has not paid at least 50 per centum of the purchase price at the time of the retaking, the seller shall not be under a duty to resell the goods as prescribed in the next preceding section, unless the buyer serves upon the seller, within ten days after the retaking, a written notice demanding a resale, delivered personally or by registered mail. If such notice is served, the resale shall take place within thirty days after the service, in the manner, at the place, and upon the notice prescribed in the next preceding section. The seller may voluntarily resell the goods for account of the buyer on compliance with the same requirements.

1078. Proceeds of resale.—The proceeds of the resale shall be applied (1) to the payment of the expenses thereof, (2) to the payment of the expenses of retaking, keeping, and storing the goods, (3) to the satisfaction of the balance due under the contract. Any sum remaining after the satisfaction of such claims shall be paid to the buyer.

1079. Deficiency on resale.—If the proceeds of the resale are not sufficient to defray the expenses thereof, and also the expenses of retaking, keeping, and storing the goods and the balance due upon the purchase price, the seller may recover the deficiency from the buyer, or from any one who has succeeded to the obligations of the buyer.

1080. Rights of parties where there is no resale.—Where there is no resale the seller may retain the goods as his own property without obligation to account to the buyer except as provided in section 1082 of this title, and the buyer shall be discharged of all obligation.

1081. Election of remedies.—After the retaking of possession as provided in section 1073 of this title the buyer shall be liable for the price only after a resale and only to the extent provided in section 1079 of this title. Neither the bringing of an action by the seller for the recovery of the whole or any part of the price, nor the recovery of judgment in such action, nor the collection of a portion of the price, shall be deemed inconsistent with a later retaking of the goods as provided in section 1073. But such right of retaking shall not be exercised by the seller after he has collected the entire price or after he has claimed a lien upon the goods, or attached them, or levied upon them as the goods of the buyer.

1082. Recovery of part payments.—If the seller fails to comply with the provisions of sections 1075 to 1078 and 1080 of this title, after retaking the goods, the buyer may recover from the seller his actual damages, if any, and in no event less than one fourth of the sum of all payments which have been made under the contract, with interest.

1083. Waiver of statutory protection.—No act or agreement of the buyer before or at the time of the making of the contract, nor any agreement or statement by the buyer in such contract, shall constitute a valid waiver of the provisions of sections 1075 to 1078 and 1082 of this title; except that the contract may stipulate that on such default of the buyer as is provided for in section 1073 of this title, the seller may rescind the conditional sale, either as to all the goods or as to any part thereof for which a specific price was fixed in the contract. If the contract thus provides for rescission, the seller at his option may retake such goods without complying with or being bound by the provisions of section 1074 to 1082 of this title, as to the goods retaken, upon crediting the buyer with the full purchase price of those goods. So much of this credit as is necessary to cancel any indebtedness of the buyer to the seller shall be so applied, and the seller shall repay to the buyer on demand any surplus not so required.

1084. Loss and increase.—After the delivery of the goods to the buyer and prior to the retaking of them by the seller, the risk of injury and loss shall rest upon the buyer. The increase of the goods shall be subject to the same conditions as the original goods.

1085. Rules for cases not provided for.—In any case not provided for in this chapter the rules of law and equity, including the law merchant, and in particular those relating to principal and agent and to the effect of fraud, misrepresentation, duress or coercion, mistake, or other invalidating cause, shall continue to apply to conditional sales.

CHAPTER 36.—DEPOSIT IN GENERAL

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ARTICLE 1.—NATURE AND CREATION OF DEPOSIT

Sec.
1091. Deposit, kinds of.
1092. Voluntary deposit, how made.
1093. Involuntary deposit, how made.
1094. Duty of involuntary depositary.
1095. Deposit for keeping, what.
1096. Deposit for exchange, what.

Section 1091. Deposit, kinds of.—A deposit may be voluntary or involuntary; and for safe-keeping or for exchange.

CROSS-REFERENCES

Common carriers, see sections 1391 et seq., of this title.
Deposit for exchange, see section 1096 of this title.
Deposit for hire, see sections 1131 et seq., of this title.
Deposit for keeping, see sections 1111 et seq., of this title.
Gratuitous deposit, and incidents, see sections 1121 et seq., of this title.
Hiring, see sections 1271 et seq., of this title.
Innkeepers, see sections 1201 and 1202 of this title.
Loan for exchange, see section 1251 of this title.
Loan for use, see sections 1231 et seq., of this title.
Loan of money, see section 1261 of this title.
Pledge, see sections 2281 et seq., of this title.

1092. Voluntary deposit, how made.—A voluntary deposit is made by one giving to another, with his consent, the possession of personal property to keep for the benefit of the former, or of a third party. The person giving is called the depositor, and the person receiving the depositary.

CROSS-REFERENCES

Finder of lost articles, see sections 1211 et seq., of this title.
Obligations of depositary, see sections 1101 et seq., of this title.

1093. Involuntary deposit, how made.—An involuntary deposit is made:

1. By the accidental leaving or placing of personal property in the possession of any person, without negligence on the part of its owner; or

2. In cases of fire, shipwreck, inundation, insurrection, riot, or like extraordinary emergencies, by the owner of personal property committing it, out of necessity, to the care of any person.

CROSS-REFERENCES

Degree of care requisite, see section 1123 of this title.
Duties of depositary, when cease, see section 1124 of this title.
Involuntary deposit in cases of emergency must be accepted, see section 1094 of this title.
Involuntary deposit is gratuitous, see section 1122 of this title.

1094. Duty of involuntary depositary.—The person with whom a thing is deposited in the manner described in the next preceding section is bound to take charge of it, if able to do so.

1095. Deposit for keeping, what.—A deposit for keeping is one in which the depositary is bound to return the identical thing deposited.

CROSS-REFERENCE

Deposit for keeping, see sections 1111 et seq., of this title.

1096. Deposit for exchange, what.—A deposit for exchange is one in which the depositary is only bound to return a thing corresponding in kind to that which is deposited.

CROSS-REFERENCES

Deposit for exchange transfers title, see section 1221 of this title.
Loan for exchange, see sections 1251 et seq., of this title.

ARTICLE 2.—OBLIGATIONS OF THE DEPOSITARY

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1101. Depositary must deliver on demand.
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1103. Place of delivery.
1104. Notice to owner of adverse claim.
Sec.
1105. Notice to owner of thing wrongfully detained.
1106. Delivery of thing owned jointly, etc.
1107. Joint deposits by more than one person.

1101. Depositary must deliver on demand.—A depositary must deliver the thing to the person for whose benefit it was deposited, on demand, whether the deposit was made for a specified time or not, unless he has a lien upon the thing deposited, or has been forbidden or prevented from doing so by the real owner thereof, or by the act of the law, and has given the notice required by section 1104 of this title.

CROSS-REFERENCES

Care required of depositary, see section 1132 of this title.
Delivery, see sections 1102 and 1106 of this title.
For a general lien on personality dependent upon possession, see section 2311 of this title.
Lien of innkeepers, see section 1201 of this title.
Notice of adverse proceedings, see section 1104 of this title.

1102. No obligation to deliver without demand.—A depositary is not bound to deliver a thing deposited without demand, even where the deposit is made for a specified time.

1103. Place of delivery.—A depositary must deliver the thing deposited at his residence or place of business, as may be most convenient for him.

CROSS-REFERENCE

Delivery on sales, see sections 1021 et seq., of this title.

1104. Notice to owner of adverse claim.—A depositary must give prompt notice to the person for whose benefit the deposit was made, of any proceedings taken adversely to his interest in the thing deposited, which may tend to excuse the depositary from delivering the thing to him.

1105. Notice to owner of thing wrongfully detained.—A depositary who believes that a thing deposited with him is wrongfully detained from its true owner, may give him notice of the deposit; and if within a reasonable time afterwards he does not claim it, and sufficiently establish his right thereto, and indemnify the depositary against the claim of the depositor, the depositary is exonerated from liability to the person to whom he gave the notice, upon returning the thing to the depositor, or assuming, in good faith, a new obligation changing his position in respect to the thing, to his prejudice.

1106. Delivery of thing owned jointly, etc.—If a thing deposited is owned jointly or in common by persons who cannot agree upon the manner of its delivery, the depositary may deliver to each his proper share thereof, if it can be done without injury to the thing.

1107. Joint deposits by more than one person.—When a deposit is made in the name of two or more persons, deliverable or payable to either or to their survivor or survivors, such deposit or any part thereof, or increase thereof, may be delivered or paid to either of said persons or to the survivor or survivors in due course of business.

CROSS-REFERENCE

Performance to one of joint creditors, see section 723 of this title.

CHAPTER 37.—DEPOSIT FOR KEEPING

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ARTICLE 1.—GENERAL PROVISIONS

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1111. Depositor must idemnify depositary.
1112. Obligation of depositary of animals.
1113. Obligations as to use of thing deposited.
1114. Liability for damage arising from wrongful use.
1115. Sale of thing in danger of perishing.
1116. Injury to or loss of thing deposited.
1117. Service rendered by depositary.
1118. Liability of depositary.

Section 1111. Depositor must indemnify depositary.—A depositor must indemnify the depositary:

1. For all damage caused to him by the defects or vices of the thing deposited; and

2. For all expenses necessarily incurred by him about the thing, other than such as are involved in the nature of the undertaking.

CROSS-REFERENCE

Lender's liability for defects in articles borrowed, see section 1240 of this title.

1112. Obligation of depositary of animals.—A depositary of living animals must provide them with suitable food and shelter, and treat them kindly.

CROSS-REFERENCE

Lien of keepers of livestock, see section 2311 of this title.

1113. Obligations as to use of thing deposited.—A depositary may not use the thing deposited, or permit it to be used, for any purpose, without the consent of the depositor. He may not, if it is purposely fastened by the depositor, open it without the consent of the latter, except in case of necessity.

CROSS-REFERENCES

Hiring; definition of term, see sections 1271 et seq., of this title.
Liability for wrongful use, see section 1114 of this title.

1114. Liability for damage arising from wrongful use.—A depositary is liable for any damage happening to the thing deposited, during his wrongful use thereof, unless such damage must inevitably have happened though the property had not been thus used.

1115. Sale of thing in danger of perishing.—If a thing deposited is in actual danger of perishing before instructions can be obtained from the depositor, the depositary may sell it for the best price obtainable and retain the proceeds as a deposit, giving immediate notice of his proceedings to the depositor.

CROSS-REFERENCE

Sale of perishables, see section 1137 of this title.

1116. Injury to or loss of thing deposited.—If a thing is lost or injured during its deposit, and the depositary refuses to inform the depositor of the circumstances under which the loss or injury occurred, so far as he has information concerning them, or willfully misrepresents the circumstances to him, the depositary is presumed to have willfully, or by gross negligence, permitted the loss or injury to occur.

1117. Service rendered by depositary.—So far as any service is rendered by a depositary, or required from him, his duties and liabilities are prescribed by chapters 41 to 43 of this title on employment and service.

1118. Liability of depositary.—The liability of a depositary for negligence cannot exceed the amount which he is informed by the depositor, or has reason to suppose, the thing deposited to be worth.

ARTICLE 2.—GRATUITOUS DEPOSIT

Sec.
1121. Gratuitous deposit, what.
1122. Nature of involuntary deposit.
1123. Degree of care required of gratuitous depositary.
1124. His duties cease, when.

1121. Gratuitous deposit, what.—Gratuitous deposit is a deposit for which the depositary receives no consideration beyond the mere possession of the thing deposited.

CROSS-REFERENCE

Degree of care necessary, see section 1123 of this title.

1122. Nature of involuntary deposit.—An involuntary deposit is gratuitous, the depositary being entitled to no reward.

CROSS-REFERENCE

Involuntary deposit, defined, see section 1093 of this title.

1123. Degree of care required of gratuitous depositary.—A gratuitous depositary must use at least slight care for the preservation of the thing deposited.

1124. His duties cease, when.—The duties of a gratuitous depositary cease:

1. Upon his restoring the thing deposited to its owner; or

2. Upon his giving reasonable notice to the owner to remove it, and the owner failing to do so within a reasonable time. But an involuntary depositary, under subdivision 2 of section 1093 of this title, cannot give such notice until the emergency which gave rise to the deposit is past.

ARTICLE 3.—STORAGE

Sec.
1131. Deposit for hire.
1132. Degree of care required of depositary for hire.
1133. Rate of compensation for fraction of week, etc.
1134. Termination of deposit.
1135. Same.
1136. Lien for storage charges, advances, insurance, and expenses.
1137. Storage property to be sold.

1131. Deposit for hire.—A deposit not gratuitous is called storage. The depositary in such case is called a depositary for hire.

CROSS-REFERENCES

Hiring, in general, see section 1271 of this title.
Warehousemen, see sections 1141 et seq., of this title.

1132. Degree of care required of depositary for hire.—A depositary for hire must use at least ordinary care for the preservation of the thing deposited.

CROSS-REFERENCES

Care required of a hirer, see section 1274 of this title.
Common carriers, see sections 1411, 1431 and 1491 of this title.
Liability of warehousemen, see sections 1435 and 1436 of this title.

1133. Rate of compensation for fraction of week, etc.—In the absence of a different agreement or usage, a depositary for hire is entitled to one week's hire for the sustenance and shelter of living animals during any fraction of a week, and to half a month's hire for the storage of any other property during any fraction of a half-month.

1134. Termination of deposit.—In the absence of an agreement as to the length of time during which a deposit is to continue, it may be terminated by the depositor at any time, and by the depositary upon reasonable notice.

1135. Same.—Notwithstanding an agreement respecting the length of time during which a deposit is to continue, it may be terminated by the depositor on paying all that would become due to the depositary in case of the deposit so continuing.

1136. Lien for storage charges, advances, insurance, and expenses.—A depositary for hire has a lien for storage charges and for advances and insurance incurred at the request of the depositor, and for money necessarily expended in and about the care, preservation, and keeping of the property stored, and he also has a lien for money advanced at the request of the depositor, to discharge a prior lien, and for the expenses of a sale where default has been made in satisfying a valid lien. The rights of the depositary for hire to such lien are regulated by chapters 62 et seq., of this title, on liens: *Provided*, *however*, That such lien may be enforced in the manner provided by sections 1169, 1171 and 1172 of this title, relating to warehousemen.

1137. Storage property to be sold.—If from any cause other than want of ordinary care and diligence on his part, a depositary for hire is unable to deliver perishable property, baggage, or luggage received by him for storage, or to collect his charges for storage due thereon, he may cause such property to be sold to satisfy his lien for storage in accordance with the provisions of sections 1169 to 1172 of this title relating to warehousemen.

Cross-References

Sale by pledgee, see sections 2295 et seq., of this title.
Sale extinguishes lien, see section 2222 of this title.
Sale of perishables, see section 1115 of this title.
Sale of personalty to enforce, see section 2313 of this title.
Warehousemen, see sections 1141 et seq., of this title.

ARTICLE 4.—WAREHOUSEMEN

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CROSS-REFERENCE

Nothing in the chapter on sales of goods is to be construed to repeal or limit this article, see section 1057 of this title.

1141. Persons who may issue receipts.—Warehouse receipts may be issued by any warehouseman.

1142. Form of receipts.—Warehouse receipts need not be in any particular form, but every such receipt must embody within its written or printed terms—

(a) The location of the warehouse where the goods are stored;

(b) The date of issue of the receipt;

(c) The consecutive number of the receipt;

(d) A statement whether the goods received will be delivered to the bearer, to a specified person, or to a specified person or his order;

(e) The rate of storage charges;

(f) A description of the goods or of the packages containing them;

(g) The signature of the warehouseman, which may be made by his authorized agent;

(h) If the receipt is issued for goods of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; and

(i) A statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien. If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouseman or to his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof is sufficient.

A warehouseman shall be liable to any person injured thereby, for all damage caused by the omission from a negotiable receipt of any of the foregoing terms.

A warehouseman may insert in a receipt, issued by him, any other terms and conditions, provided that such terms and conditions shall not—

(a) Be contrary to the provisions of this article.

(b) In anywise impair his obligation to exercise that decree of care in the safe-keeping of the goods intrusted to him which a reasonably careful man would exercise in regard to similar goods of his own.

1143. Negotiable and nonnegotiable receipts.—A receipt in which it is stated that the goods received will be delivered to the depositor, or to any other specified person, is a nonnegotiable receipt. A receipt in which it is stated that the goods received will be delivered to the bearer or to the order of any person named in such receipt is a negotiable receipt. No provision shall be inserted in a negotiable receipt that it is nonnegotiable. Such provision, if inserted, shall be void.

1144. Duplicate receipts must be so marked.—When more than one negotiable receipt is issued for the same goods, the word "duplicate" shall be plainly placed upon the face of every such receipt except the one first issued. A warehouseman shall be liable for all damage caused by his failure so to do to any one who purchased the subsequent receipt for value supposing it to be an original, even though the purchase be after the delivery of the goods by the warehouseman to the holder of the original receipt.

1145. Failure to mark "not negotiable."—A nonnegotiable receipt shall have plainly placed upon its face by the warehouseman issuing it "nonnegotiable" or "not negotiable." In case of the warehouseman's failure so to do, a holder of the receipt who purchased it for value supposing it to be negotiable may, at his option, treat such receipt as imposing upon the warehouseman the same liabilities he would have incurred had the receipt been negotiable. This section shall not apply, however, to letters, memoranda, or written acknowledgments of an informal character.

1146. Obligation of warehouseman to deliver.—A warehouseman, in the absence of some lawful excuse provided by this article, is bound to deliver the goods upon a demand made either by the holder of a receipt for the goods or by the depositor, if such demand is accompanied with—

(a) An offer to satisfy the warehouseman's lien;

(b) An offer to surrender the receipt if negotiable, with such indorsement as would be necessary for the negotiation of the receipt; and

(c) A readiness and willingness to sign, when the goods are delivered, and acknowledgment that they have been delivered, if such signature is requested by the warehouseman.

In case the warehouseman refuses or fails to deliver the goods in compliance with a demand by the holder or depositor so accompanied, the burden shall be upon the warehouseman to establish the existence of a lawful excuse for such refusal.

1147. Justification of warehouseman in delivering.—A warehouseman is justified in delivering the goods, subject to the provisions of sections 1148 to 1150 of this title, to one who is—

(a) The person lawfully entitled to the possession of the goods, or his agent;

(b) A person who is either himself entitled to delivery by the terms of a nonnegotiable receipt issued for the goods, or who has written authority from the person so entitled either indorsed upon the receipt or written upon another paper; or

(c) A person in possession of a negotiable receipt by the terms of which the goods are deliverable to him or order or to bearer, or which has been indorsed to him or in blank by the person to whom delivery was promised by the terms of the receipt or by his mediate or immediate indorsee.

1148. Warehouseman's liability for misdelivery.—Where a warehouseman delivers the goods to one who is not in fact lawfully entitled to the possession of them, the warehouseman shall be liable as for conversion to all having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the next preceding section and though he delivered the goods as authorized by said subdivisions he shall be so liable, if prior to such delivery he had either—

(a) Been requested, by or on behalf of the person lawfully entitled to a right of property or possession in the goods, not to make such delivery; or

(b) Had information that the delivery about to be made was to one not lawfully entitled to the possession of the goods.

1149. Negotiable receipts must be canceled or marked when goods or part thereof are delivered.—Except as provided in section 1172 of this title, where a warehouseman delivers goods for which he had issued a negotiable receipt, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the receipt, he shall be liable to anyone who purchases for value in good faith such receipt, for failure to deliver the goods to him, whether such purchaser acquired title to the receipt before or after the delivery of the goods by the warehouseman.

Except as provided in said section 1172, where a warehouseman delivers part of the goods for which he had issued a negotiable receipt and fails either to take up and cancel such receipt, or to place plainly upon it a statement of what goods or packages have been delivered he shall be liable, to anyone who purchases for value in good faith such receipt, for failure to deliver all the goods specified in the receipt, whether such purchaser acquired title to the receipt before or after the delivery of any portion of the goods by the warehouseman.

1150. Altered receipts.—The alteration of a receipt shall not excuse the warehouseman who issued it from any liability if such alteration was—

(a) Immaterial;
(b) Authorized; or
(c) Made without fraudulent intent.

If the alteration was authorized, the warehouseman shall be liable according to the terms of the receipt as altered. If the alteration was unauthorized, but made without fraudulent intent, the warehouseman shall be liable acording to the terms of the receipt, as they were before alteration. Material and fraudulent alteration of a receipt shall not excuse the warehouseman who issued it from liability to deliver, according to the terms of the receipt as originally issued, the goods for which it was issued, but shall excuse him from any other liability to the person who made the alteration and to any person who took with notice of the alteration. Any purchaser of the receipt for value without notice of the alteration shall acquire the same rights against the warehouseman which such purchaser would have acquired if the receipt had not been altered at the time of the purchase.

1151. Lost or destroyed receipts.—Where a negotiable receipt has been lost or destroyed, a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient sureties to be approved by the court to protect the warehouseman from any liability or expense, which he or any person injured by such delivery may incur by reason of the original receipt remaining outstanding. The court may also in its discretion order the payment of the warehouseman's reasonable costs and counsel fees. The delivery of the goods under an order of the court as provided in this section shall not relieve the warehouseman from liability to a person to whom the negotiable receipt has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

1152. Effect of duplicate receipts.—A receipt upon the face of which the word " duplicate " is plainly placed is a representation and warranty by the warehouseman that such receipt is an accurate copy of an original receipt properly issued and uncanceled at the date of the issue of the duplicate, but shall impose upon him no other liability.

1153. Warehouseman cannot set up title in himself.—No title or right to the possession of the goods, on the part of the warehouseman, unless such title or right is derived directly or indirectly from a transfer made by the depositor at the time of or subsequent to the deposit for storage, or from the warehouseman's lien, shall excuse the warehouseman from liability for refusing to deliver the goods according to the terms of the receipt.

1154. Interpleader of adverse claimants.—If more than one person claim the title or possession of the goods, the warehouseman may, either as a defense to an action brought against him for nondelivery of the goods, or as an original suit, whichever is appropriate, require all known claimants to interplead.

1155. Warehouseman has reasonable time to determine validity of claims.—If someone other than the depositor or person claiming under him has a claim to the title or possession of the goods, and the warehouseman has information of such claim, the warehouseman shall be excused from liability for refusing to deliver the goods, either to the depositor or person claiming under him or to the adverse claimant, until the warehouseman has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

1156. Adverse title is no defense except as above provided.—Except as provided in sections 1154 and 1155 of this title and in sections 1147 and 1172 of this title, no right or title of a third person shall be a defense to an action brought by the depositor or person claiming under him against the warehouseman for failure to deliver the goods according to the terms of the receipt.

1157. Liability for nonexistence or misdescription of goods.—A warehouseman shall be liable to the holder of a receipt, issued by him or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of warehouse receipts, for damages caused by the nonexistence of the goods or by the failure of the goods to correspond with the description thereof in the receipt at the time of its issue. If, however, the goods are described in a receipt merely by a statement of marks or labels upon them, or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind, or that the packages containing the goods are said to contain goods of a certain kind, or by words of like purport, such statements, if true, shall not make liable the warehouseman issuing the receipt, although the goods are not of the kind which the marks or labels upon them indicate, or of the kind they were said to be by the depositor.

1158. Liability for care of goods.—A warehouseman shall be liable for any loss or injury to the goods caused by his failure to exercise such care in regard to them as a reasonably careful owner of similar goods would exercise, but he shall not be liable, in the absence of an agreement to the contrary, for any loss or injury to the goods which could not have been avoided by the exercise of such care.

1159. Goods must be kept separate.—Except as provided in the section next following, a warehouseman shall keep the goods so far separate from goods of other depositors, and from other goods of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the goods deposited.

1160. Commingled goods and warehouseman's liability therefor.—If authorized by agreement or by custom, a warehouseman may mingle fungible goods with other goods of the same kind and grade. In such case the various depositors of the mingled goods shall own the entire mass in common, and each depositor shall be entitled to such portion thereof as the amount deposited by him bears to the whole.

The warehouseman shall be severally liable to each depositor for the care and redelivery of his share of such mass to the same extent and under the same circumstances as if the goods had been kept separate.

1161. Attachment or levy upon goods for which a negotiable receipt has been issued.—If goods are delivered to a warehouseman by the owner or by a person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner, and a negotiable receipt is issued for them, they cannot thereafter, while in the possession of the warehouseman, be attached by garnishment or otherwise, or be levied upon under an execution, unless the receipt be first surrendered to the warehouseman, or its negotiation enjoined. The warehouseman shall in no case be compelled to deliver up the actual possession of the goods until the receipt is surrendered to him or impounded by the court.

1162. Creditors' remedies to reach negotiable receipts.—A creditor whose debtor is the owner of a negotiable receipt shall be entitled to such aid from courts of appropriate jurisdiction, by injunction and otherwise, in attaching such receipt or in satisfying the claim by means thereof as is allowed at law or in equity, in regard to property which cannot readily be attached or levied upon by ordinary legal process.

1163. What claims are included in the warehouseman's lien.—Subject to the provisions of section 1166 of this title, a warehouseman shall have a lien on goods deposited or on the proceeds thereof in his hands, for all lawful charges for storage and preservation of the goods; also for all lawful claims for money advanced, interest, insurance, transportation, labor, weighing, coopering and other charges and expenses in relation to such goods; also for all reasonable charges and expenses for notice, and advertisements of sale, and for sale of the goods where default has been made in satisfying the warehouseman's lien.

1164. Against what property the lien may be enforced.—Subject to the provisions of section 1166 of this title, a warehouseman's lien may be enforced—

(a) Against all goods, whenever deposited, belonging to the person who is liable as debtor for the claims in regard to which the lien is asserted; and

(b) Against all goods belonging to others which have been deposited at any time by the person who is liable as debtor for the claims in regard to which the lien is asserted, if such person had been so intrusted with the possession of the goods that a pledge of the same by him at the time of the deposit to one who took the goods in good faith for value would have been valid.

1165. How the lien may be lost.—A warehouseman loses his lien upon goods—

(a) By surrendering possession thereof; or

(b) By refusing to deliver the goods when a demand is made with which he is bound to comply under the provisions of this article.

1166. Negotiable receipt must state charges for which lien is claimed.—If a negotiable receipt is issued for goods, the warehouseman shall have no lien thereon, except for charges for storage of those goods subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed. In such case there shall be a lien for the charges enumerated so far as they are within the terms of section 1163 of this title, although the amount of the charges so enumerated is not stated in the receipt.

1167. Warehouseman need not deliver until lien is satisfied.—A warehouseman having a lien valid against the person demanding the goods may refuse to deliver the goods to him until the lien is satisfied.

1168. Warehouseman's lien does not preclude other remedies.—Whether a warehouseman has or has not a lien upon the goods, he is entitled to all remedies allowed by law to a creditor against his debtor for the collection from the depositor of all charges and advances which the depositor has expressly or impliedly contracted with the warehouseman to pay.

1169. Satisfaction of lien by sale.—A warehouseman's lien for a claim which has become due may be satisfied as follows: The warehouseman shall give a written notice to the person on whose account the goods are held, and to any other person known by the warehouseman to claim an interest in the goods. Such notice shall be given by delivery in person or by registered letter addressed to the last known place of business or abode of the person to be notified. The notice shall contain:

(a) An itemized statement of the warehouseman's claim, showing the sum due at the time of the notice and the date or dates when it became due;

(b) A brief description of the goods against which the lien exists;

(c) A demand that the amount of the claim as stated in the notice, and of such further claim as shall accrue, shall be paid on or before a day mentioned, not less than ten days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination, according to the due course of post, if the notice is sent by mail; and

(d) A statement that unless the claim is paid within the time specified the goods will be advertised for sale and sold by acution at a specified time and place.

In accordance with the terms of a notice so given, a sale of the goods by auction may be had to satisfy any valid claim of the warehouseman for which he has a lien on the goods. The sale shall be had in the place where the lien was acquired, or, if such a place is manifestly unsuitable for the purpose, at the nearest suitable place.

After the time for the payment of the claim specified in the notice to the depositor has elapsed, a notice of the sale, describing the goods to be sold, and stating the name of the owner or person on whose account the goods are held, and the time and place of the sale, shall be posted for two consecutive weeks on the bulletin board of each post office of the Canal Zone. The sale shall not be held less than fifteen days from the time when such notices were posted. From the proceeds of such sale the warehouseman shall satisfy his lien, including the reasonable charges of notice and sale. The balance, if any, of such proceeds shall be held by the warehouseman, and delivered on demand to the person to whom he would have been bound to deliver or justified in delivering the goods: *Provided*, *however*, That in case any such balance shall not be claimed by the rightful owner within one month from the day of said sale, the same shall be paid to the collector of the Panama Canal; and if the same be not claimed by the owner thereof or his legal representatives within one year thereafter, the same shall be covered into the Treasury of the United States as miscellaneous receipts. At any time before the goods are so sold any person claiming a right of property or possession therein may pay the warehouseman the amount necessary to satisfy his lien and to pay the reasonable expenses and liabilities incurred in serving and posting notices and preparing for the sale up to the time of such payment. The warehouseman shall deliver the goods to the person making such payment if he is a person entitled, under the provisions of this article, to the possession of the goods on payment of the charges thereon. Otherwise the warehouseman shall retain possession of the goods according to the terms of the original contract of deposit.

1170. Perishable and hazardous goods.—If goods are of a perishable nature, or by keeping will deteriorate greatly in value, or by their odor, leakage, inflammability, or explosive nature will be liable to injure other property, the warehouseman may give such notice to the owner, or to the person in whose name the goods are stored, as is reasonable and possible under the circumstances, to satisfy the lien upon such goods and to remove them from the warehouse, and in the event of the failure of such person to satisfy the lien and to remove the goods within the time so specified, the warehouseman may sell the goods at public or private sale without posting notices. If the warehouseman after a reasonable effort is unable to sell such goods, he may dispose of them in any lawful manner, and shall incur no liability by reason thereof. The proceeds of any sale made under the terms of this section shall be disposed of in the same way as the proceeds of sales made under the terms of the next preceding section.

1171. Other methods of enforcing liens.—The remedy for enforcing a lien herein provided does not preclude any other remedies allowed by law for the enforcement of a lien against personal property nor bar the right to recover so much of the warehouseman's claim as shall not be paid by the proceeds of the sale of the property.

1172. Effect of sale.—After goods have been lawfully sold to satisfy a warehouseman's lien, or have been lawfully sold or disposed of because of their perishable or hazardous nature, the warehouseman shall not thereafter be liable for failure to deliver the goods to the depositor, or owner of the goods, or to a holder of the receipt given for the goods when they were deposited, even if such receipt be negotiable.

1173. Negotiation of negotiable receipts by delivery and by indorsement.—A negotiable receipt may be negotiated by delivery—

(a) Where, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the bearer; or

(b) Where, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the receipt has indorsed it in blank or to bearer.

Where, by the terms of a negotiable receipt, the goods are deliverable to bearer or where a negotiable receipt has been indorsed in blank or to bearer, any holder may indorse the same to himself or to any other specified person, and in such case the receipt shall thereafter be negotiated only by the indorsement of such indorsee.

A negotiable receipt may be negotiated by the indorsement of the person to whose order the goods are, by the terms of the receipt, deliverable. Such indorsement may be in blank, to bearer or to a specified person. If indorsed to a specified person, it may be again negotiated by the indorsement of such person in blank, to bearer or to another specified person. Subsequent negotiation may be made in like manner.

1174. Transfer of receipts.—A receipt which is not in such form that it can be negotiated by delivery may be transferred by the holder by delivery to a purchaser or donee. A nonnegotiable receipt cannot be negotiated, and the indorsement of such a receipt gives the transferee no additional right.

1175. Who may negotiate a receipt.—A negotiable receipt may be negotiated—

By any person in possession of the same, however such possession may have been acquired, if, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of such person or if at the time of negotiation the receipt is in such form that it may be negotiated by delivery.

1176. Rights of person to whom a receipt has been negotiated.—A person to whom a negotiable receipt has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the receipt to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of the receipt had or had ability to convey to a purchaser in good faith for value; and

(b) The direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him.

1177. Rights of person to whom a receipt has been transferred.—A person to whom a receipt has been transferred but not negotiated acquires thereby, as against the transferor, the title to the goods, subject to the terms of any agreement with the transferor. If the receipt is nonnegotiable, such person also acquires the right to notify the warehouseman of the transfer to him of such receipt, and thereby to acquire the direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt. Prior to the notification of the warehouseman by the transferor or transferee of a nonnegotiable receipt, the title of the transferee to the goods and the right to acquire the obligation of the warehouseman may be defeated by the levy of an attachment or execution upon the goods by a creditor of the transferor, or by a notification to the warehouseman by the transferor, or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

1178. Transfer of negotiable receipt without indorsement.—Where a negotiable receipt is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the receipt, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made.

1179. Warranties on sale of receipt.—A person who for value negotiates or transfers a receipt by indorsement or delivery, including one who assigns for value a claim secured by a receipt, unless a contrary intention appears, warrants—

(a) That the receipt is genuine;

(b) That he has a legal right to negotiate or transfer it;

(c) That he has knowledge of no fact which would impair the validity or worth of the receipt; and

(d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented thereby.

1180. Indorser not a guarantor.—The indorsement of a receipt shall not make the indorser liable for any failure on the part of the warehouseman or previous indorsers of the receipt to fulfill their respective obligations.

1181. No warranty implied from accepting payment of a debt.—A mortgagee, pledgee, or holder for security of a receipt who in good faith demands or receives payment of the debt for which such receipt is security, whether from a party to a draft drawn for such debt or from any other person, shall not by so doing be deemed to represent or to warrant the genuineness of such receipt or the quantity or quality of the goods therein described.

1182. When negotiation not impaired by fraud, mistake, or duress.—The validity of the negotiation of a receipt is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the receipt was deprived of the possession of the same by loss, theft, fraud, accident, mistake, duress, or conversion, if the person to whom the receipt was negotiated, or a person to whom the receipt was subsequently negotiated, paid value therefor, in good faith, without notice of the breach of duty, or loss, theft, fraud, accident, mistake, duress, or conversion.

1183. Subsequent negotiation.—Where a person having sold, mortgaged, or pledged goods which are in a warehouse and for which a negotiable receipt has been issued, or having sold, mortgaged, or pledged the negotiable receipt representing such goods, continues in possession of the negotiable receipt, the subsequent negotiation thereof by that person under any sale, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, mortgage, or pledge, shall have the same effect as if the first purchaser of the goods or receipt had expressly authorized the subsequent negotiation.

1184. Negotiation defeats vendor's lien.—Where a negotiable receipt has been issued for goods, no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such receipt has been negotiated, whether such negotiation be prior or subsequent to the notification to the warehouseman who issued such receipt of the seller's claim to a lien or right of stoppage in transitu. Nor shall the warehouseman be obliged to deliver or be justified in delivering the goods to an unpaid seller unless the receipt is first surrendered for cancelation.

1185. Issue of receipt for goods not received.—A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a receipt knowing that the goods for which such receipt is issued have not been actually received by such warehouseman, or are not under his actual control at the time of issuing such receipt, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail for not more than one year, or by a fine of not more than $1,000, or by both.

1186. Issue of receipt containing false statement.—A warehouseman, or any officer, agent, or servant of a warehouseman, who fraudulently issues or aids in fraudulently issuing a receipt for goods knowing that it contains any false statement, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail for not more than one year, or by a fine of not more than $1,000, or by both.

1187. Issue of duplicate receipts not so marked.—A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "Duplicate," except in the case of a lost or destroyed receipt after proceedings as provided for in section 1151 of this title, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail for not more than one year, or by a fine of not more than $1,000, or by both.

1188. Issue for warehouseman's goods of receipts which do not state that fact.—Where there are deposited with or held by a warehouseman goods of which he is owner, either solely or jointly or in common with others, such warehouseman, or any of his officers, agents, or servants who, knowing this ownership, issues or aids in issuing a negotiable receipt for such goods which does not state such ownership, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail for not more than one year, or by a fine of not more than $1,000, or by both.

1189. Delivery of goods without obtaining negotiable receipt.—A warehouseman, or any officer, agent, or servant of a warehouseman who delivers goods out of the possession of such warehouseman, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, shall, except in the cases provided for in sections 1151 and 1172 of this title, be found guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail for not more than one year, or by a fine of not more than $1,000, or by both.

1190. Negotiation of receipt for mortgaged goods.—Any person who deposits goods to which he has not title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable receipt which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail for not more than one year, or by a fine of not more than $1,000, or by both.

1191. When rules of common law still applicable.—In any case not provided for in this article, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent and to the effect of fraud, misrepresentation, duress, or coercion, mistake, or other invalidating cause, shall govern.

1192. Definitions.—(1) In this article, unless the context or subject matter otherwise requires—

"Action" includes counterclaim, set-off, and suit in equity.

"Delivery" means voluntary transfer of possession from one person to another.

"Fungible goods" means goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit.

"Goods" means chattels or merchandise in storage, or which has been or is about to be stored.

"Holder" of a receipt means a person who has both actual possession of such receipt and a right of property therein.

"Order" means an order by indorsement on the receipt.

"Owner" does not include mortgagee or pledgee.

"Person" includes a corporation or partnership or two or more persons having a joint or common interest.

To "purchase" includes to take as mortgagee or as pledgee.

"Purchaser" includes mortgagee and pledgee.

"Receipt" means a warehouse receipt.

"Value" is any consideration sufficient to support a simple contract. An antecedent or preexisting obligation, whether for money or not, constitutes value where a receipt is taken either in satisfaction thereof or as security therefor.

"Warehouseman" means a person lawfully engaged in the business of storing goods for profit.

(2) A thing is done "in good faith" within the meaning of this article, when it is in fact done honestly, whether it be done negligently or not.

1193. Application to existing receipts.—The provisions of this article do not apply to receipts made and delivered prior to the taking effect of this article.

ARTICLE 5—INNKEEPERS

Sec.
1201. Hotels have lien on baggage of guests; may sell baggage; residue; baggage not belonging to guest.
1202. Unclaimed baggage may be sold at auction; notice.

1201. Hotels have lien on baggage of guests; may sell baggage; residue; baggage not belonging to guest.—Hotel, inn, boarding house, and lodging house keepers shall have a lien upon the baggage and other property belonging to or legally under the control of their guests, or boarders, or lodgers which may be in such hotel, inn, or boarding or lodging house for the proper charges due from such guests, or boarders, or lodgers, for their accommodation, board and lodging, and room rent, and such extras as are furnished at their request, and for all money paid for or advanced to such guests, or boarders or lodgers, and for the costs of enforcing such lien, with the right to the possession of such baggage and other property until such charges and moneys are paid.

And unless such charges and moneys shall be paid when the same become due, said hotel, inn, boarding house, or lodging house keeper may sell said baggage and property under the conditions prescribed in sections 1169 to 1172 of this title relating to warehousemen.

1202. Unclaimed baggage may be sold at auction; notice.—Whenever any trunk, carpetbag, valise, box, bundle, or other baggage has heretofore come, or shall hereafter come into the possession of the keeper of any hotel, inn, boarding or lodging house, and has remained or shall remain unclaimed for a period of three months, such keeper shall proceed to sell the same under the conditions prescribed in sections 1169 to 1172 of this title relating to warehousemen.

ARTICLE 6.—FINDING

Sec.
1211. Obligation of finder.
1212. Finder of goods or money, or saving animals, duty of.
1213. Claimant to prove ownership.
1214. Reward, etc., to finder.
1215. Finder may put thing found on storage.
1216. When finder may sell the thing found.
1217. How sale is to be made.
1218. Property vests in finder, when; liability of finder to owner.
1219. Thing abandoned.

1211. Obligation of finder.—One who finds a thing lost is not bound to take charge of it, but if he does so he is thenceforward a depositary for the owner, with the rights and obligations of a depositary for hire.

CROSS-REFERENCE

Depositary for hire, see sections 1132 et seq., of this title.

1212. Finder of goods or money, or saving animals, duty of.—If the finder of a thing, other than a domestic animal, takes possession thereof, or if a person saves any such animal from drowning or starvation, he must, within a reasonable time, inform the owner thereof, if known, and make restitution to him upon demand, without compensation, except a reasonable charge for saving and caring therefor.

If the owner is not known to such finder or saver, he must, within five days, file an affidavit with the magistrate of the subdivision in which the finding or saving took place, particularly describing the property and the time, place, and circumstances under which it was found or saved.

1213. Claimant to prove ownership.—The finder of a thing may, in good faith, before giving it up, require reasonable proof of ownership from any person claiming it.

1214. Reward, etc., to finder.—The finder of a thing is entitled to compensation for all expenses necessarily incurred by him in its preservation, and for any other service necessarily performed by him about it, and to a reasonable reward for keeping it.

1215. Finder may put thing found on storage.—The finder of a thing may exonerate himself from liability at any time by placing it on storage with any responsible person of good character, at a reasonable expense.

1216. When finder may sell the thing found.—The finder of a thing may sell it, if it is a thing which is commonly the subject of sale, when the owner cannot, with reasonable diligence, be found, or, being found, refuses upon demand to pay the lawful charges of the finder, in the following cases—

1. When the thing is in danger of perishing or of losing the greater part of its value; or

2. When the lawful charges of the finder amount to two thirds of its value.

1217. How sale is to be made.—A sale under the provisions of the next preceding section must be made in the same manner as the sale of a thing pledged.

CROSS-REFERENCE

Sale of pledge, see sections 2295 et seq., of this title.

1218. Property vests in finder, when; liability of finder to owner.—If no owner appears within six months after such finding or saving and offers reasonable proof of his ownership, and compensates, or in good faith offers to compensate, the finder or saver for the expense necessarily incurred by him, then such property vests in such finder or saver.

1219. Thing abandoned.—The provisions of this article have no application to things which have been intentionally abandoned by their owners.

CHAPTER 38.—DEPOSIT FOR EXCHANGE

Section 1221. Relations of the parties.—A deposit for exchange transfers to the depositary the title to the thing deposited, and creates between him and the depositor the relation of debtor and creditor merely.

Cross-References

Deposit for exchange, defined, see section 1096 of this title.
Loan for exchange, see sections 1251 et seq., of this title.

CHAPTER 39.—LOAN

Art.	Sec.
1. Loan for use	1231
2. Loan for exchange	1251
3. Loan of money	1261

ARTICLE 1.—LOAN FOR USE

Sec.
1231. Loan, what.
1232. Title to property lent.
1233. Care required of borrower.
1234. Same.
1235. Degree of skill.
1236. Borrower, when to repair injuries.
1237. Use of thing lent.
1238. Relending forbidden.
1239. Borrower, when to bear expenses.
1240. Lender liable for defects.
1241. Lender may require return of thing lent.
1242. When returnable without demand.
1243. Place of return.

Section 1231. Loan, what.—A loan for use is a contract by which one gives to another the temporary possession and use of personal property, and the latter agrees to return the same thing to him at a future time, without reward for its use.

1232. Title to property lent.—A loan for use does not transfer the title to the thing; and all its increase during the period of the loan belongs to the lender.

Cross-Reference

Title to thing lent on loan for exchange, see section 1253 of this title.

1233. Care required of borrower.—A borrower for use must use great care for the preservation in safety and in good condition of the thing lent.

1234. Same.—One who borrows a living animal for use must treat it with great kindness and provide everything necessary and suitable for it.

Cross-Reference

Depositary of living animals for keeping, see section 1112 of this title.

1235. Degree of skill.—A borrower for use is bound to have and to exercise such skill in the care of the thing lent as he causes the lender to believe him to possess.

1236. Borrower, when to repair injuries.—A borrower for use must repair all deteriorations or injuries to the thing lent which are occasioned by his negligence, however slight.

1237. Use of thing lent.—The borrower of a thing for use may use it for such purposes only as the lender might reasonably anticipate at the time of lending.

CROSS-REFERENCE

Relending forbidden, see section 1238 of this title.

1238. Relending forbidden.—The borrower of a thing for use must not part with it to a third person, without the consent of the lender.

1239. Borrower, when to bear expenses.—The borrower of a thing for use must bear all its expenses during the loan, except such as are necessarily incurred by him to preserve it from unexpected and unusual injury. For such expenses he is entitled to compensation from the lender, who may, however, exonerate himself by surrendering the thing to the borrower.

CROSS-REFERENCE

Liability for expenses, see section 1253 of this title.

1240. Lender liable for defects.—The lender of a thing for use must indemnify the borrower for damage caused by defects or vices in it, which he knew at the time of lending, and concealed from the borrower.

CROSS-REFERENCES

Indemnity to depositary, see section 1111 of this title.
Loan for exchange, see sections 1251 and 1255 of this title.

1241. Lender may require return of thing lent.—The lender of a thing for use may at any time require its return, even though he lent it for a specified time or purpose. But if, on the faith of such an agreement, the borrower has made such arrangements that a return of the thing before the period agreed upon would cause him loss, exceeding the benefit derived by him from the loan, the lender must indemnify him for such loss, if he compels such return, the borrower not having in any manner violated his duty.

1242. When returnable without demand.—If a thing is lent for use for a specified time or purpose, it must be returned to the lender without demand, as soon as the time has expired, or the purpose has been accomplished. In other cases it need not be returned until demanded.

1243. Place of return.—The borrower of a thing for use must return it to the lender, at the place contemplated by the parties at the time of lending; or if no particular place was so contemplated by them, then at the place where it was at the time.

ARTICLE 2.—LOAN FOR EXCHANGE

Sec.
1251. Loan for exchange, what.
1252. Same.
1253. Title to property lent.
Sec.
1254. Contract cannot be modified by lender.
1255. Certain sections applicable.

1251. Loan for exchange, what.—A loan for exchange is a contract by which one delivers personal property to another, and the latter agrees to return to the lender a similar thing at a future time, without reward for its use.

Cross-Reference

Loan of money as a loan for exchange, see section 1261 of this title.

1252. Same.—A loan, which the borrower is allowed by the lender to treat as a loan for use, or for exchange, at his option, is subject to all the provisions of this article.

1253. Title to property lent.—By a loan for exchange the title to the thing lent is transferred to the borrower, and he must bear all its expenses, and is entitled to all its increase.

Cross-References

Liability for expenses, see section 1239 of this title.
Title to property lent, see section 1232 of this title.

1254. Contract cannot be modified by lender.—A lender for exchange cannot require the borrower to fulfill his obligations at a time, or in a manner, different from that which was originally agreed upon.

1255. Certain sections applicable.—Sections 1240, 1242, and 1243 of this title apply to a loan for exchange.

ARTICLE 3.—LOAN OF MONEY

Sec.
1261. Loan of money, defined.
1262. Loan to be repaid in current money.
1263. Loan presumed to be on interest.
1264. Interest, what.
1265. Annual rate.
Sec.
1266. Legal interest.
1267. Usurious contracts; principal only, recoverable.
1268. Recovery of usurious interest paid.
1269. Evidence of usury.

1261. Loan of money, defined.—A loan of money is a contract by which one delivers a sum of money to another, and the latter agrees to return at a future time a sum equivalent to that which he borrowed. A loan for mere use is governed by the article on loan for use.

Cross-Reference

Interest, see sections 1263 et seq., of this title.

1262. Loan to be repaid in current money.—A borrower of money, unless there is an express contract to the contrary, must pay the amount due in such money as is current at the time when the loan becomes due, whether such money is worth more or less than the actual money lent.

1263. Loan presumed to be on interest.—Whenever a loan of money is made, it is presumed to be made upon interest, unless it is otherwise expressly stipulated at the time in writing.

Cross-Reference

Tender of performance stops interest, see section 750 of this title.

1264. Interest, what.—Interest is the compensation allowed by law or fixed by the parties for the use, or forebearance, or detention of money.

CROSS-REFERENCES

Interest as damages, see sections 2631 et seq., of this title.
Interest in actions ex delicto, see section 2632 of this title.
Legacies, interest on, see section 621 of this title.
Liability of trustee for interest, see sections 1530 and 1565 of this title.
Special partner may receive interest, see section 1826 of this title.
Claims against decedent's estate interest on, see title 4, sections 1476 and 1591.
Executor chargeable for interest arising out of estate, see title 4, section 1562.

1265. Annual rate.—When a rate of interest is prescribed by a law or contract, without specifying the period of time by which such rate is to be calculated, it is to be deemed an annual rate.

CROSS-REFERENCES

Interest as damages, see sections 2631 et seq., of this title.
Rate of interest after breach of contract, see section 2633 of this title.

1266. Legal interest.—No rate of interest shall be allowed in excess of 6 per centum per annum upon any contract for the use or detention of money, unless the same is in writing and the interest agreed upon must not exceed 12 per centum per annum.

1267. Usurious contracts; principal only, recoverable.—All contracts whatsoever which may in any way, directly or indirectly, violate the next preceding section by stipulating for a greater rate of interest than 12 per centum per annum, shall be void and of no effect for the amount or value of the interest only; but the principal sum of money or value of the contract may be received and recovered.

1268. Recovery of usurious interest paid.—When the interest received or collected for the use or detention of money exceeds the rate of 12 per centum per annum, it shall be deemed to be usurious, and the person or persons paying the same, or their legal representatives, may recover from the person, firm, or corporation receiving such interest, the amount of the interest so received or collected, in any court of competent jurisdiction, within two years from the date of the payment of such interest.

1269. Evidence of usury.—No evidence of usury shall be received on the trial of any case unless the same shall be pleaded and verified by the affidavit of the party wishing to avail himself of such defense.

CHAPTER 40.—HIRING

Sec.
1271. Hiring, what.
1272. Products of thing.
1273. Quiet possession.
1274. Degree of care, etc., on part of hirer.
1275. Must repair injuries, etc.
1276. Thing let for a particular purpose.
1277. When letter may terminate the hiring.
1278. Hirer may terminate the hiring, when.
Sec.
1279. When hiring terminates.
1280. When terminated by death, etc., of party.
1281. Apportionment of hire.
1282. Obligations of letter of personal property.
1283. Ordinary expenses.
1284. Extraordinary expenses.
1285. Return of thing hired.

Section 1271. Hiring, what.—Hiring is a contract by which one gives to another the temporary possession and use of property, other than money, for reward, and the latter agrees to return the same to the former at a future time.

CROSS-REFERENCE

Hiring personalty, see sections 1282 et seq., of this title.

1272. Products of thing.—The products of a thing hired, during the hiring, belong to the hirer.

1273. Quiet possession.—An agreement to let upon hire binds the letter to secure to the hirer the quiet possession of the thing hired during the term of the hiring, against all persons lawfully claiming the same.

CROSS-REFERENCES

Duty of letter of personalty likewise, section 1282 of this title.

Termination of hiring for want of quiet enjoyment, see section 1278 of this title.

1274. Degree of care, etc., on part of hirer.—The hirer of a thing must use ordinary care for its preservation in safety and in good condition.

CROSS-REFERENCE

Care required of depositary for hire, see section 1132 of this title.

1275. Must repair injuries, etc.—The hirer of a thing must repair all deteriorations or injuries thereto occasioned by his want of ordinary care.

CROSS-REFERENCES

Duty of letter to repair, see section 1282 of this title.

Hirer may make repairs and recover from letter when, see section 1284 of this title.

Termination of hiring where hirer does not make repairs, see section 1277 of this title.

1276. Thing let for a particular purpose.—When a thing is let for a particular purpose the hirer must not use it for any other purpose; and if he does, he is liable to the letter for all damages resulting from such use, or the letter may treat the contract as thereby rescinded.

CROSS-REFERENCE

Right to terminate hiring, see section 1277 of this title.

1277. When letter may terminate the hiring.—The letter of a thing may terminate the hiring and reclaim the thing before the end of the term agreed upon:

1. When the hirer uses or permits a use of the thing hired in a manner contrary to the agreement of the parties; or

2. When the hirer does not, within a reasonable time after request, make such repairs as he is bound to make.

CROSS-REFERENCE

Termination of hiring, see section 1276 of this title.

1278. Hirer may terminate the hiring, when.—The hirer of a thing may terminate the hiring before the end of the term agreed upon:

1. When the letter does not, within a reasonable time after request, fulfill his obligations, if any, as to placing and securing the hirer in the quiet possession of the thing hired, or putting it into good condition, or repairing; or

2. When the greater part of the thing hired, or that part which was and which the letter had at the time of the hiring reason to believe was the material inducement to the hirer to enter into the contract, perishes from any other cause than the want of ordinary care of the hirer.

Cross-References

Repair of premises, see section 1282 of this title.
Right of hirer to quiet enjoyment, see section 1273 of this title.

1279. When hiring terminates.—The hiring of a thing terminates:

1. At the end of the term agreed upon;
2. By the mutual consent of the parties;
3. By the hirer acquiring a title to the thing hired superior to that of the letter; or
4. By the destruction of the thing hired.

1280. When terminated by death, etc., of party.—If the hiring of a thing is terminable at the pleasure of one of the parties, it is terminated by notice to the other of his death or incapacity to contract. In other cases it is not terminated thereby.

1281. Apportionment of hire.—When the hiring of a thing is terminated before the time originally agreed upon, the hirer must pay the due proportion of the hire for such use as he has actually made of the thing, unless such use is merely nominal and of no benefit to him.

Cross-Reference

For the compensation to which a depositary for hire is entitled upon a termination of the deposit, see sections 1133 to 1135 of this title.

1282. Obligations of letter of personal property.—One who lets personal property must deliver it to the hirer, secure his quiet enjoyment thereof against all lawful claimants, put it into a condition fit for the purpose for which he lets it, and repair all deteriorations thereof not occasioned by the fault of the hirer and not the natural result of its use.

Cross-References

Quiet enjoyment, see sections 1273 and 1278 of this title.
Repair of premises, see sections 1275 and 1278 of this title.

1283. Ordinary expenses.—A hirer of personal property must bear all such expenses concerning it as might naturally be foreseen to attend it during its use by him. All other expenses must be borne by the letter.

1284. Extraordinary expenses.—If a letter failed to fulfill his obligations, as prescribed by section 1282 of this title, the hirer, after giving him notice to do so, if such notice can conveniently be given, may expend any reasonable amount necessary to make good the letter's default, and may recover such amount from him.

1285. Return of thing hired.—At the expiration of the term for which personal property is hired, the hirer must return it to the letter at the place contemplated by the parties at the time of hiring; or, if no particular place was so contemplated by them, at the place at which it was at that time.

CHAPTER 41.—SERVICE WITH EMPLOYMENT

Art.	Sec.	Art.	Sec.
1. Application and scope of chapters 41 to 43 of this title	1291	3. Obligations of employer	1311
2. Definition of employment	1301	4. Obligations of employee	1321
		5. Termination of employment	1341

ARTICLE 1.—APPLICATION AND SCOPE OF CHAPTERS 41 TO 43 OF THIS TITLE

Sec.
1291. No application to Canal or Railroad employees.
1292. Scope of chapter.

Section 1291. No application to Canal or Railroad employees.—This chapter and chapters 42 and 43 of this title shall have no application to the United States Government, or the Panama Railroad Company, or to their employees as concerns such employment.

1292. Scope of chapter.—The scope of this chapter is not confined to servants, but includes factors, brokers, carriers, agents, and all similar classes of persons.

ARTICLE 2.—DEFINITION OF EMPLOYMENT

1301. Employment, what.—The contract of employment is a contract by which one, who is called the employer, engages another, who is called the employee, to do something for the benefit of the employer or of a third person.

ARTICLE 3.—OBLIGATIONS OF EMPLOYER

Sec.
1311. When employer must indemnify employee.
1312. When employer not bound to indemnify employee.
1313. Employer to indemnify for his own negligence.

1311. When employer must indemnify employee.—An employer must indemnify his employee, except as prescribed in the section next following, for all that he necessarily expends or loses in direct consequence of the discharge of his duties as such, or of his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying such directions, believed them to be unlawful.

1312. When employer not bound to indemnify employee.—An employer is not bound to indemnify his employee for losses suffered by the latter in consequence of the ordinary risks of the business in which he is employed nor in consequence of the negligence of another person employed by the same employer in the same general business, unless the negligence causing the injury was committed in the performance of a duty the employer owes by law to the employee, or unless the employer has neglected to use ordinary care in the selection of the culpable employee: *Provided*, *nevertheless*, That the employer shall be liable for such injury when the same results from the wrongful act, neglect, or defraud of any agent or officer of such employer, superior to the employee injured, or of a person employed by such employer having the right to control or direct the services of such employee injured, and also when such injury results from the wrongful act, neglect, or default of a coemployee engaged in another department of labor from that of the employee injured, or employed upon a machine or other appliance other than that upon which the employee injured is employed.

Knowledge by an employee injured of the defective or unsafe character or condition of any machinery, ways, appliances or structures of such employer shall not be a bar to recovery for any injury or death caused thereby, unless it shall also appear that such employee fully understood, comprehended and appreciated the dangers incident to the use of such defective machinery, ways, appliances or structures, and thereafter consented to use the same, or continued in the use thereof.

Any contract or agreement, express or implied, made by any such employee to waive the benefits of this section, or any part thereof, shall be null and void, and this section shall not be construed to deprive any such employee or his personal representative of any right or remedy to which he is now entitled under the laws of the Canal Zone.

The rules and principles of law as to contributory negligence which apply to other cases shall apply to cases arising under this section, except insofar as the same are herein modified or changed.

1313. Employer to indemnify for his own negligence.—An employer must in all cases indemnify his employee for losses caused by the former's want of ordinary care.

ARTICLE 4.—OBLIGATIONS OF EMPLOYEE

Sec.
1321. Duties of gratuitous employee.
1322. Same.
1323. Same.
1324. Duties of employee for reward.
1325. Duties of employee for his own benefit.
1326. Employee must obey employer.
1327. Employee to conform to usage.
1328. Degree of skill required.

Sec.
1329. Must use what skill he has.
1330. What belongs to employer.
1331. Duty to account.
1332. Employee not bound to deliver without demand.
1333. Preference to be given to employers.
1334. Responsibility for negligence.
1335. Surviving employee.
1336. Confidential employment.

1321. Duties of gratuitous employee.—One who, without consideration, undertakes to do a service for another, is not bound to perform the same, but if he actually enters upon its performance, he must use at least slight care and diligence therein.

1322. Same.—One who, by his own special request, induces another to intrust him with the performance of a service, must perform the same fully. In other cases, one who undertakes a gratuitous service may relinquish it at any time.

1323. Same.—A gratuitous employee, who accepts a written power of attorney, must act under it so long as it remains in force, or until he gives notice to his employer that he will not do so.

1324. Duties of employee for reward.—One who, for a good consideration, agrees to serve another, must perform the service, and must use ordinary care and diligence therein, so long as he is thus employed.

1325. Duties of employee for his own benefit.—One who is employed at his own request to do that which is more for his own advantage than for that of his employer, must use great care and diligence therein to protect the interest of the latter.

1326. Employee must obey employer.—An employee must substantially comply with all the directions of his employer concerning the service on which he is engaged, except where such obedience is impossible or unlawful, or would impose new and unreasonable burdens upon the employee.

1327. Employee to conform to usage.—An employee must perform his service in conformity to the usage of the place of performance, unless otherwise directed by his employer, or, unless it is impracticable, or manifestly injurious to his employer to do so.

1328. Degree of skill required.—An employee is bound to exercise a reasonable degree of skill, unless his employer has notice, before employing him, of his want of skill.

1329. Must use what skill he has.—An employee is always bound to use such skill as he possesses, so far as the same is required, for the service specified.

1330. What belongs to employer.—Everything which an employee acquires by virtue of his employment, except the compensation, if any, which is due to him from his employer, belongs to the latter, whether acquired lawfully or unlawfully, or during or after the expiration of the term of his employment.

1331. Duty to account.—An employee must, on demand, render to his employer just accounts of all his transactions in the course of his service, as often as may be reasonable, and must, without demand, give prompt notice to his employer of everything which he receives for his account.

1332. Employee not bound to deliver without demand.—An employee who receives anything on account of his employer, in any capacity other than that of a mere servant, is not bound to deliver it to him until demanded, and is not at liberty to send it to him from a distance, without demand, in any mode involving greater risk than its retention by the employee himself.

1333. Preference to be given to employers.—An employee who has any business to transact on his own account, similar to that intrusted to him by his employer, must always give the latter the preference.

1334. Responsibility for negligence.—An employee who is guilty of a culpable degree of negligence is liable to his employer for the damage thereby caused to the latter; and the employer is liable to him, if the service is not gratuitous, for the value of such services only as are properly rendered.

1335. Surviving employee.—Where service is to be rendered by two or more persons jointly, and one of them dies, the survivor must act alone, if the service to be rendered is such as he can rightly perform without the aid of the deceased person, but not otherwise.

1336. Confidential employment.—The obligations peculiar to confidential employments are defined in chapters 49 and 50 of this title on trusts.

ARTICLE 5.—TERMINATION OF EMPLOYMENT

Sec.
1341. Employment, how terminated.
1342. Same.
1343. Continuance of service in certain cases.
1344. Terms of employment.
Sec.
1345. Termination by employer.
1346. Termination by employee.
1347. Compensation due on dismissal.
1348. Compensation due on quitting.

1341. Employment, how terminated.—Every employment in which the power of the employee is not coupled with an interest in its subject is terminated by notice to him of:

1. The death of the employer; or
2. His legal incapacity to contract.

1342. Same.—Every employment is terminated:

1. By the expiration of its appointed term;
2. By the extinction of its subject;
3. By the death of the employee; or
4. By his legal incapacity to act as such.

1343. Continuance of service in certain cases.—An employee, unless the term of his service has expired, or unless he has a right to discontinue it at any time without notice, must continue his service after notice of the death or incapacity of his employer, so far as is necessary to protect from serious injury the interests of the employer's successor in interest, until a reasonable time after notice of the facts has been communicated to such successor. The successor must compensate the employee for such service according to the terms of the contract of employment.

1344. Terms of employment.—An employment, having no specified terms, may be terminated at the will of either party, on notice to the other. Employment for a specified term shall mean an employment for a period greater than one month.

1345. Termination by employer.—An employment, for a specified term, may be terminated at any time by the employer, in case of any willful breach of duty by the employee in the course of his employment, or in case of his habitual neglect of his duty or continued incapacity to perform it.

1346. Termination by employee.—An employment, for a specified term, may be terminated by the employee at any time, in case of any willful or permanent breach of the obligations of his employer to him as an employee.

1347. Compensation due on dismissal.—An employee who is not employed for a specified term, dismissed by his employer, is entitled to compensation for services rendered up to the time of such dismissal.

1348. Compensation due on quitting.—An employee who is not employed for a specified term and who quits the service of his employer, is entitled to compensation for services rendered up to the time of such quitting.

CHAPTER 42.—PARTICULAR EMPLOYMENTS

Art. Sec.
1. Master and servant 1351
2. Agents 1361
3. Factors 1371

Cross-Reference

This chapter not applicable to Canal or Railroad employees, see section 1291 of this title.

ARTICLE 1.—MASTER AND SERVANT

Sec.
1351. Servant, what.
1352. Term of hiring.
1353. Same.
1354. Renewal of hiring.
1355. Servant to pay over without demand.
1356. When servant may be discharged.

Section 1351. Servant, what.—A servant is one who is employed to render personal service to his employer, otherwise than in the pursuit of an independent calling, and who in such service remains entirely under the control and direction of the latter, who is called his master.

Cross-References

Employer and employee, generally, see sections 1301 et seq., of this title.
Obligations of employee, see sections 1321 et seq., of this title.
Obligations of employer, see sections 1311 et seq., of this title.

1352. Term of hiring.—A servant is presumed to have been hired for such length of time as the parties adopt for the estimation of wages. A hiring at a yearly rate is presumed to be for one year; a hiring at a daily rate, for one day; a hiring by piecework, for no specified term.

1353. Same.—In the absence of any agreement or custom as to the term of service, the time of payment, or rate or value of wages, a servant is presumed to be hired by the month, at a monthly rate of reasonable wages, to be paid when the service is performed.

1354. Renewal of hiring.—Where, after the expiration of an agreement respecting the wages and the term of service, the parties continue the relation of master and servant, they are presumed to have renewed the agreement for the same wages and term of service.

1355. Servant to pay over without demand.—A servant must deliver to his master, as soon as with reasonable diligence he can find him, everything that he receives for his account, without demand; but he is not bound, without orders from his master, to send anything to him through another person.

1356. When servant may be discharged.—A master may discharge any servant, other than an apprentice, whether engaged for a fixed term or not:

1. If he is guilty of misconduct in the course of his service, or of gross immorality, though unconnected with the same; or

2. If, being employed about the person of the master, or in a confidential position, the master discovers that he has been guilty of misconduct, before or after the commencement of his service, of such a nature that, if the master had known or contemplated it, he would not have so employed him.

ARTICLE 2.—AGENTS

Sec.
1361. Agent to conform to his authority.
1362. Must keep his principal informed.
1363. Collecting agent.
1364. Responsibility of subagent.

1361. Agent to conform to his authority.—An agent must not exceed the limits of his actual authority, as defined by chapter 51 of this title on agency.

CROSS-REFERENCES

Actual authority, see section 1633 of this title.
Agency, see sections 1611 et seq., of this title.
Ostensible authority, see section 1634 of this title.

1362. Must keep his principal informed.—An agent must use ordinary diligence to keep his principal informed of his acts in the course of the agency.

1363. Collecting agent.—An agent employed to collect a negotiable instrument must collect it promptly, and take all measures necessary to charge the parties thereto, in case of its dishonor; and, if it is a bill of exchange, must present it for acceptance with reasonable diligence.

1364. Responsibility of subagent.—A mere agent of an agent is not responsible as such to the principal of the latter.

ARTICLE 3.—FACTORS

Sec.
1371. Factor, what.
1372. Obedience required from factor.
1373. Sales on credit.
1374. Liability of factor under guaranty commission.
1375. Factor cannot relieve himself from liability.

1371. Factor, what.—A factor is an agent who, in the pursuit of an independent calling, is employed by another to sell property for him, and is vested by the latter with the possession or control of the property, or authorized to receive payment therefor from the purchaser.

CROSS-REFERENCES

Factor, what, see section 1701 of this title.
Factor's authority, see sections 1702 and 1703 of this title.
Factor's lien, see section 2314 of this title.
Factor's power to pledge principal's goods, see sections 1702 and 2286 of this title.

1372. Obedience required from factor.—A factor must obey the instructions of his principal to the same extent as any other employee, notwithstanding any advances he may have made to his principal upon the property consigned to him, except that if the principal forbids him to sell at the market price, he may, nevertheless, sell for his reimbursement, after giving to his principal reasonable notice of his intention to do so, and of the time and place of sale, and proceeding in all respects as a pledgee.

1373. Sales on credit.—A factor may sell property consigned to him on such credit as is usual; but, having once agreed with the purchaser upon the term of credit, may not extend it.

CROSS-REFERENCE

Authority to sell on credit, see section 1702 of this title.

1374. Liability of factor under guaranty commission.—A factor who charges his principal with a guaranty commission upon a sale, thereby assumes absolutely to pay the price when it falls due, as if it were a debt of his own, and not as a mere guarantor for the purchaser; but he does not thereby assume any additional responsibility for the safety of his remittance of the proceeds.

1375. Factor cannot relieve himself from liability.—A factor who receives property for sale, under a general agreement or usage to guarantee the sales or the remittance of the proceeds, cannot relieve himself from responsibility therefor without the consent of his principal.

CHAPTER 43.—SERVICE WITHOUT EMPLOYMENT

Section 1381.—Voluntary interference with property.—One who officiously, and without the consent of the real or apparent owner of a thing, takes it into his possession for the purpose of rendering a service about it, must complete such service, and use ordinary care, diligence, and reasonable skill about the same. He is not entitled to any compensation for his service or expenses, except that he may deduct actual and necessary expenses incurred by him about such service from any profits which his service has caused the thing to acquire for its owner, and must account to the owner for the residue.

CROSS-REFERENCE

Gratuitous carriers, see section 1394 of this title.

CHAPTER 44.—CARRIAGE IN GENERAL

Sec.
1391. Contract of carriage.
1392. Different kinds of carriers.
1393. Application of chapters 44 to 48 of this title to marine carriers.
1394. Obligations of gratuitous carriers.
1395. Obligations of gratuitous carrier who has begun to carry.

Section 1391. Contract of carriage.—The contract of carriage is a contract for the conveyance of property, persons, or messages, from one place to another.

CROSS-REFERENCES

Carriage of messages, see section 1461 of this title.
Carriage of persons, see sections 1401 et seq., of this title.
Carriage of property, see sections 1421 et seq., of this title.
Common carriers, defined, see section 1471 of this title.
Gratuitous carriers of passengers, care required of, see sections 1394 and 1395 of this title.

1392. Different kinds of carriers.—Carriage is either:
1. Inland; or
2. Marine.

1393. Application of chapters 44 to 48 of this title to marine carriers.—This chapter and chapters 45 to 48 of this title, with the exception of section 1441 of this title, shall have no application to marine carriers. Marine carriers, within the meaning of this section, shall include carriers upon the ocean, upon arms of the sea, and those transiting the Canal from ocean to ocean.

CROSS-REFERENCE

Inland carriers of property, rights and duties of, see sections 1491 et seq., of this title.

1394. Obligations of gratuitous carriers.—Carriers without reward are subject to the same rules as employees without reward, except so far as is otherwise provided by this chapter and chapters 45 to 48 of this title.

CROSS-REFERENCES

Gratuitous carriers, see sections 1395, 1401, and 1431 of this title.
Service without employment, see section 1381 of this title.

1395. Obligations of gratuitous carrier who has begun to carry.—A carrier without reward, who has begun to perform his undertaking, must complete it in like manner as if he had received a reward, unless he restores the person or thing carried to as favorable a position as before he commenced the carriage.

CROSS-REFERENCES

Compare with section 1401 of this title.
Gratuitous carriers, see sections 1394, 1401 and 1431 of this title.

CHAPTER 45.—CARRIAGE OF PERSONS

Art.	Sec.	Art.	Sec.
1. Gratuitous carriage of persons	1401	2. Carriage for reward	1411

ARTICLE 1.—GRATUITOUS CARRIAGE OF PERSONS

Section 1401. Degree of care required.—A carrier of persons without reward must use ordinary care and diligence for their safe carriage.

CROSS-REFERENCES

Carriers of persons, generally, see sections 1481 et seq., of this title.
Duty of gratuitous employee, generally, see sections 1321, 1322, and 1381 of this title.
Gratuitous carriers, see sections 1394, 1395 and 1431 of this title.

ARTICLE 2.—CARRIAGE FOR REWARD

Sec.
1411. General duties of carrier.
1412. Vehicles.
1413. Not to overload his vehicle.
1414. Treatment of passengers.
1415. Rate of speed and delays.

1411. General duties of carrier.—A carrier of persons for reward must use the utmost care and diligence for their safe carriage, must provide everything necessary for that purpose, and must exercise to that end a reasonable degree of skill.

CROSS-REFERENCE

Limiting liability by contract, see sections 1474 to 1476 of this title.

1412. Vehicles.—A carrier of persons for reward is bound to provide vehicles safe and fit for the purposes to which they are put, and is not excused for default in this respect by any degree of care.

1413. Not to overload his vehicle.—A carrier of persons for reward must not overcrowd or overload his vehicle.

1414. Treatment of passengers.—A carrier of persons for reward must give to passengers all such accommodations as are usual and reasonable, and must treat them with civility, and give them a reasonable degree of attention.

1415. Rate of speed and delays.—A carrier of persons for reward must travel at a reasonable rate of speed, and without any unreasonable delay, or deviation from his proper route.

CHAPTER 46.—CARRIAGE OF PROPERTY

Art. Sec.
1. General definitions 1421
2. Obligations of carrier 1431
3. Bills of lading 1441
4. Freightage 1451

ARTICLE 1.—GENERAL DEFINITIONS

Section 1421. Freight, consignor, and so forth, what.—Property carried is called freight; the reward, if any, to be paid for its carriage is called freightage; the person who delivers the freight to the carrier is called the consignor; and the person to whom it is to be delivered is called the consignee.

CROSS-REFERENCE

Freightage, questions relating to, see section 1451 of this title.

ARTICLE 2.—OBLIGATIONS OF CARRIER

Sec.
1431. Care and diligence required of carriers.
1432. Carrier to obey directions.
1433. Conflict of orders.
1434. Delivery of freight.
1435. Notice when freight not delivered.
1436. When consignee does not accept.

1431. Care and diligence required of carriers.—A carrier of property for reward must use at least ordinary care and diligence in the performance of all his duties. A carrier without reward must use at least slight care and diligence.

CROSS-REFERENCES

Alteration of liability by agreement, see sections 1474 et seq., of this title.
Gratuitous carriers, see sections 1394, 1395, and 1401 of this title.

1432. Carrier to obey directions.—A carrier must comply with the directions of the consignor or consignee to the same extent that an employee is bound to comply with those of his employer.

1433. Conflict of orders.—When the directions of a consignor and and consignee are conflicting, the carrier must comply with those of the consignor in respect to all matters except the delivery of the freight, as to which he must comply with the directions of the consignee, unless the consignor has specially forbidden the carrier to receive orders from the consignee inconsistent with his own.

1434. Delivery of freight.—A carrier of property must deliver it to the consignee, at the place to which it is addressed, in the manner usual at that place.

Cross-Reference

Damages for carrier's breach of obligation to deliver, see section 2655 of this title.

1435. Notice when freight not delivered.—If, for any reason, a carrier does not deliver freight to the consignee or his agent personally, he must give notice to the consignee of its arrival, and keep the same in safety, upon his responsibility as a warehouseman, until the consignee has had a reasonable time to remove it. If the place of residence or business of the consignee be unknown to the carrier, he may give the notice by letter dropped in the nearest post office.

Cross-Reference

Damages for breach of obligation to deliver, see sections 2655 and 2656 of this title.

1436. When consignee does not accept.—If a consignee does not accept and remove freight within 72 hours after the carrier has fulfilled his obligation to deliver, or duly offered to fulfill the same, the rights and duties of the carrier shall thereafter be the same as those of a warehouseman as provided in sections 1141 to 1193 of this title.

ARTICLE 3.—BILLS OF LADING

1441. Application of Federal Bill of Lading Act to shipments wholly within Canal Zone.—The Federal Bill of Lading Act (U.S. Code, title 49, secs. 81 to 124) is hereby made applicable to shipments wholly within the Canal Zone.

Note.—The text of the act above referred to is shown in the appendix at page 999.

ARTICLE 4.—FREIGHTAGE

Sec.
1451. When freightage is to be paid.
1452. Consignor, when liable for freightage.
1453. Consignee, when liable.
1454. Natural increase of freight.
1455. Apportionment by contract.
1456. Same.
1457. Apportionment according to distance.
1458. Freight carried further than agreed, etc.
1459. Carrier's lien for freightage, services, and advances.

1451. When freightage is to be paid.—A carrier may require his freightage to be paid upon his receiving the freight; but if he does not demand it then, he cannot until he is ready to deliver the freight to the consignee.

Cross-Reference

Freightage, defined, see section 1421 of this title.

1452. Consignor, when liable for freightage.—The consignor of freight is presumed to be liable for the freightage, but if the contract between him and the carrier provides that the consignee shall pay it, and the carrier allows the consignee to take the freight, he cannot afterwards recover the freightage from the consignor.

1453. Consignee, when liable.—The consignee of freight is liable for the freightage, if he accepts the freight with notice of the intention of the consignor that he should pay it.

1454. Natural increase of freight.—No freightage can be charged upon the natural increase of freight.

1455. Apportionment by contract.—If freightage is apportioned by a bill of lading or other contract made between a consignor and carrier, the carrier is entitled to payment, according to the apportionment, for so much as he delivers.

1456. Same.—If a part of the freight is accepted by a consignee, without specific objection that the rest is not delivered, the freightage must be apportioned and paid as to that part, though not apportioned in the original contract.

1457. Apportionment according to distance.—If a consignee voluntarily receives freight at a place short of the one appointed for delivery, the carrier is entitled to a just proportion of the freightage, according to distance. If the carrier, being ready and willing, offers to complete the transit, he is entitled to the full freightage. If he does not thus offer completion, and the consignee receives the freight only from necessity, the carrier is not entitled to any freightage.

1458. Freight carried further than agreed, etc.—If freight is carried further, or more expeditiously, than was agreed upon by the parties, the carrier is not entitled to additional compensation, and cannot refuse to deliver it, on the demand of the consignee, at the place and time of its arrival.

1459. Carrier's lien for freightage, services, and advances.—A carrier has a lien for freightage and for services rendered at request of shipper or consignee in and about the transportation, care, and preservation of the property, and he also has a lien for money advanced at request of shipper or consignee to discharge a prior lien. His rights to such lien are regulated by chapters 62 to 65 of this title on liens: *Provided*, *however*, That such lien may be enforced in the manner provided by sections 1169 to 1172 of this title relating to warehousemen.

Cross-Reference

Liens, generally, see sections 2171 et seq., of this title.

CHAPTER 47.—CARRIAGE OF MESSAGES

Section 1461. Degree of care and diligence required.—A carrier of messages for reward must use great care and diligence in the transmission and delivery of messages.

CHAPTER 48.—COMMON CARRIERS

Art. Sec.
1. Common carriers in general 1471
2. Common carriers of persons 1481
3. Common carriers of property 1491

ARTICLE 1.—COMMON CARRIERS IN GENERAL

Sec.
1471. Common carrier, what.
1472. Obligation to accept freight.
1473. Compensation.
1474. Obligations of carrier altered only by agreement.
1475. Certain agreements void.
1476. Effect of written contract.
1477. Loss of valuable letters.

Section 1471. Common carrier, what.—Everyone who offers to the public to carry persons, property, or messages is a common carrier of whatever he thus offers to carry.

CROSS-REFERENCES

Carriage, in general, see sections 1391 et seq., of this title.
Marine carriers, defined, see section 1393 of this title.
Rights and liabilities of carriers; see
    Carriers of persons, sections 1481 et seq., of this title.
    Carriers of property, sections 1491 et seq., of this title.

1472. Obligation to accept freight.—A common carrier must, if able to do so, accept and carry whatever is offered to him, at a reasonable time and place, of a kind that he undertakes or is accustomed to carry.

CROSS-REFERENCE

Damage for failure to accept freight, see section 2654 of this title.

1473. Compensation.—A common carrier is entitled to a reasonable compensation and no more, which he may require to be paid in advance. If payment thereof is refused, he may refuse to carry.

CROSS-REFERENCE

Lien for freightage, services, and advances, see section 1459 of this title.

1474. Obligations of carrier altered only by agreement.—The obligations of a common carrier cannot be limited by general notice on his part, but may be limited by special contract.

CROSS-REFERENCES

Compare with sections 1476 and 1494 of this title.
Limiting liability by special contract, see section 1475 of this title.

1475. Certain agreements void.—A common carrier cannot be exonerated, by any agreement made in anticipation thereof, from liability for the gross negligence, fraud, or willful wrong of himself or his servants.

CROSS-REFERENCE

Contract exempting one from liability for negligent or unlawful acts, illegal, see section 932 of this title.

1476. Effect of written contract.—A passenger, consignor, or consignee, by accepting a ticket, bill of lading, or written contract for carriage, with a knowledge of its terms, assents to the rate of hire, the time, place, and manner of delivery therein stated; and also to the limitation stated therein upon the amount of the carrier's liability in case property carried in packages, trunks, or boxes, is lost or injured, when the value of such property is not named; and also to the limitation stated therein to the carrier's liability for loss or injury to live animals carried. But his assent to any other modification of the carrier's obligations contained in such instrument can be manifested only by his signature to the same.

1477. Loss of valuable letters.—A common carrier is not responsible for loss or miscarriage of a letter, or package having the form of a letter, containing money or notes, bills of exchange, or other papers of value, unless he be informed at the time of its receipt of the value of its contents.

Cross-References

Consignor of valuables to declare their nature, see section 1494 of this title.
Contract limiting loss where value not stated, see section 1476 of this title.

ARTICLE 2.—COMMON CARRIERS OF PERSONS

Sec.
1481. Liability for luggage.
1482. Regulations for conduct of business.
1483. Fare, when payable.
Sec.
1484. Ejection of passengers.
1485. Fare not payable after ejection.

1481. Liability for luggage.—The liability of a carrier for luggage received by him with a passenger is the same as that of a common carrier of property.

Cross-Reference

Liability of carriers, generally, see section 1491 of this title.

1482. Regulations for conduct of business.—A common carrier of persons may make rules for the conduct of his business, and may require passengers to conform to them, if they are lawful, public, uniform in their application, and reasonable.

Cross-Reference

Ejection of passenger not conforming to regulations, see section 1484 of this title.

1483. Fare, when payable.—A common carrier may demand the fare of passengers, either at starting or at any subsequent time.

1484. Ejection of passengers.—A passenger who refuses to pay his fare or to conform to any lawful regulation of the carrier, may be ejected from the vehicle by the carrier. But this must be done with as little violence as possible, and at any usual stopping place or near some dwelling house.

Cross-Reference

Power to make rules for regulation of business, see section 1482 of this title.

1485. Fare not payable after ejection.—After having ejected a passenger, a carrier has no right to require the payment of any part of his fare.

ARTICLE 3.—COMMON CARRIERS OF PROPERTY

Sec.
1491. Liability of inland carriers for loss.
1492. When exemptions do not apply.
1493. Liability for delay.
1494. Consignor of valuables to declare their nature.
1495. Delivery of freight beyond usual route.
1496. Proof to be given in case of loss.
1497. Carrier's services, other than carriage and delivery.

1491. Liability of inland carriers for loss.—Unless the consignor accompanies the freight and retains exclusive control thereof, an inland common carrier of property is liable, from the time that he accepts until he relieves himself from liability pursuant to sections 1434 to 1436 of this title, for the loss or injury thereof from any cause whatever, except—

1. An inherent defect, vice, or weakness, or a spontaneous action, of the property itself;
2. The act of a public enemy of the United States;
3. The act of the law; or
4. Any irresistible superhuman cause.

CROSS-REFERENCES

Liability as warehouseman, see section 1435 of this title.
Termination of liability, see sections 1434 to 1436 of this title.

1492. When exemptions do not apply.—A common carrier is liable, even in the cases excepted by the next preceding section, if his want of ordinary care exposes the property to the cause of the loss.

1493. Liability for delay.—A common carrier is liable for delay only when it is caused by his want of ordinary care and diligence.

CROSS-REFERENCE

Delay in carriage, liability for, see sections 1415 and 2656 of this title.

1494. Consignor of valuables to declare their nature.—A common carrier of gold, silver, platinum, or precious stones, or of imitations thereof, in a manufactured or unmanufactured state; of timepieces of any description; of negotiable paper or other valuable writings; of pictures, glass, or chinaware; of statuary, silk or laces; or of plated ware of any kind, is not liable for more than $50 upon the loss or injury of any one package of such articles, unless he has notice, upon his receipt thereof, by mark upon the package or otherwise, of the nature of the freight; nor is such carrier liable upon any package carried for more than the value of the articles named in the receipt or the bill of lading.

CROSS-REFERENCES

Contract limiting loss where value not declared, see section 1476 of this title.
Letters or packages containing valuables, liability for loss of, see section 1477 of this title.

1495. Delivery of freight beyond usual route.—If a common carrier accepts freight for a place beyond his usual route, he must, unless he stipulates otherwise, deliver it at the end of his route in that direction to some other competent carrier carrying to the place of address, or connected with those who thus carry, and his liability ceases upon making such delivery.

CROSS-REFERENCE

Delivery, in general, see section 1434 of this title.

1496. Proof to be given in case of loss.—If freight addressed to a place beyond the usual route of the common carrier who first received it is lost or injured, he must, within a reasonable time after demand, give satisfactory proof to the consignor that the loss or injury did not occur while it was in his charge, or he will be himself liable therefor.

1497. Carrier's services, other than carriage and delivery.—In respect to any service rendered by a common carrier about freight. other than its carriage and delivery, his rights and obligations are defined by the chapters on deposit and the chapters on service.

CROSS-REFERENCES

Deposit, see sections 1091 et seq., of this title.
Service, see sections 1301 et seq., of this title.

CHAPTER 49.—TRUSTS IN GENERAL

Art. Sec.
1. Nature and creation of a trust 1501
2. Obligations of trustees 1521
3. Obligations of third persons 1541

ARTICLE I.—NATURE AND CREATION OF A TRUST

Sec.
1501. Trusts classified.
1502. Voluntary trust, what.
1503. Involuntary trust, what.
1504. Parties to the contract.
1505. What constitutes one a trustee.
1506. For what purpose a trust may be created.
1507. Voluntary trust, how created as to trustor.
1508. How created as to trustee.
1509. Involuntary trustee, who is.
1510. Involuntary trust resulting from fraud, mistake, etc.

Section 1501. Trusts classified.—A trust is either—
1. Voluntary; or
2. Involuntary.

1502. Voluntary trust, what.—A voluntary trust is an obligation arising out of a personal confidence reposed in, and voluntarily accepted by, one for the benefit of another.

1503. Involuntary trust, what.—An involuntary trust is one which is created by operation of law.

CROSS-REFERENCE

Involuntary trust, see sections 1509, 1510 and 1541 of this title.

1504. Parties to the contract.—The person whose confidence creates a trust is called the trustor; the person in whom the confidence is reposed is called the trustee; and the person for whose benefit the trust is created is called the beneficiary.

1505. What constitutes one a trustee.—Everyone who voluntarily assumes a relation of personal confidence with another is deemed a trustee, within the meaning of this chapter, not only as to the person who reposes such confidence, but also as to all persons of whose affairs he thus acquires information which was given to such person in the like confidence, or over whose affairs he, by such confidence, obtains any control.

1506. For what purpose a trust may be created.—A trust may be created for any purpose for which a contract may lawfully be made, except as otherwise prescribed by the chapter on transfer of property.

1507. Voluntary trust, how created as to trustor.—A voluntary trust is created, as to the trustor and beneficiary, by any words or acts of the trustor, indicating with reasonable certainty—

1. An intention on the part of the trustor to create a trust; and
2. The subject, purpose, and beneficiary of the trust.

Cross-References

Creation of involuntary trust, see sections 1509 and 1510 of this title.
Trusts for benefit of third persons, see section 1552 of this title.

1508. How created as to trustee.—A voluntary trust is created, as to the trustee, by any words or acts of his indicating, with reasonable certainty—

1. His acceptance of the trust, or his acknowledgment, made upon sufficient consideration, of its existence; and
2. The subject, purpose, and beneficiary of the trust.

1509. Involuntary trustee, who is.—One who wrongfully detains a thing is an involuntary trustee thereof, for the benefit of the owner.

Cross-References

Compensation of involuntary trustee, see sections 1582 and 1583 of this title.
Involuntary trustee, who is, see sections 1503 and 1541 of this title.

1510. Involuntary trust resulting from fraud, mistake, etc.—One who gains a thing by fraud, accident, mistake, undue influence, the violation of a trust, or other wrongful act, is, unless he has some other and better right thereto, an involuntary trustee of the thing gained, for the benefit of the person who would otherwise have had it.

Cross-References

Compensation of involuntary trustee, see sections 1582 and 1583 of this title.
Involuntary trustee, who is, see sections 1503, 1509 and 1541 of this title.

ARTICLE 2.—OBLIGATIONS OF TRUSTEES

Sec.
1521. Trustee's obligation to good faith.
1522. Trustee not to use property for his own profit.
1523. Certain transactions forbidden.
1524. Trustee's influence not be used for his advantage.
1525. Trustee not to assume a trust adverse to interest of beneficiary.
1526. To disclose adverse interest.
Sec.
1527. Trustee guilty of fraud, when.
1528. Presumption against trustees.
1529. Trustee mingling trust property with his own.
1530. Measure of liability for breach of trust.
1531. Same.
1532. Cotrustees, how far liable for each other.

1521. Trustee's obligation to good faith.—In all matters connected with his trust, a trustee is bound to act in the highest good faith toward his beneficiary, and may not obtain any advantage therein over the latter by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind.

1522. Trustee not to use property for his own profit.—A trustee may not use or deal with the trust property for his own profit, or for any other purpose unconnected with the trust, in any manner.

CROSS-REFERENCES

Presumption of undue influence on transactions between the trustee and beneficiary, see section 1528 of this title.

Purchaser from trustee charged with the trust when, see section 1541 of this title.

Violations of duties by trustee are fraudulent, see section 1527 of this title.

1523. Certain transactions forbidden.—Neither a trustee nor any of his agents may take part in any transaction concerning the trust in which he or anyone for whom he acts as agent has an interest, present or contingent, adverse to that of his beneficiary, except as follows:

1. When the beneficiary, having capacity to contract, with a full knowledge of the motives of the trustee, and of all other facts concerning the transaction which might affect his own decision, and without the use of any influence on the part of the trustee, permits him to do so;
2. When the beneficiary not having capacity to contract, the proper court, upon the like information of the facts, grants the like permission; or
3. When some of the beneficiaries having capacity to contract, and some not having it, the former grant permission for themselves, and the proper court for the latter, in the manner above prescribed.

CROSS-REFERENCES

Duty to inform beneficiary of adverse interest, see section 1526 of this title.

Undertaking inconsistent trust, see section 1525 of this title.

1524. Trustee's influence not to be used for his advantage.—A trustee may not use the influence which his position gives him to obtain any advantage from his beneficiary.

1525. Trustee not to assume a trust adverse to interest of beneficiary.—No trustee, so long as he remains in the trust, may undertake another trust adverse in its nature to the interest of his beneficiary in the subject of the trust, without the consent of the latter.

CROSS-REFERENCES

Compare section 1523 of this title.

Removal of trustee, see sections 1594 and 1595 of this title.

Trustee's duty to disclose adverse interest, see section 1526 of this title.

1526. To disclose adverse interest.—If a trustee acquires any interest, or becomes charged with any duty, adverse to the interest of his beneficiary in the subject of the trust, he must immediately inform the latter thereof, and may be at once removed.

1527. Trustee guilty of fraud, when.—Every violation of the provisions of sections 1521 to 1526 of this title is a fraud against the beneficiary of a trust.

1528. Presumption against trustees.—All transactions between a trustee and his beneficiary during the existence of the trust, or while the influence acquired by the trustee remains, by which he obtains any advantage from his beneficiary, are presumed to be entered into by the latter without sufficient consideration, and under undue influence.

1529. Trustee mingling trust property with his own.—A trustee who willfully and unnecessarily mingles the trust property with his own, so as to constitute himself in appearance its absolute owner, is liable for its safety in all events, and for the value of its use.

1530. Measure of liability for breach of trust.—A trustee who uses or disposes of the trust property, contrary to section 1522 of this title, may, at the option of the beneficiary, be required to account for all profits so made, or to pay the value of its use, and, if he has disposed thereof, to replace it, with its fruits, or to account for its proceeds, with interest.

Cross-References

Degree of diligence requisite, see section 1562 of this title.
Liability for noninvestment of funds, see section 1565 of this title.

1531. Same.—A trustee who uses or disposes of the trust property in any manner not authorized by the trust, but in good faith, and with intent to serve the interests of the beneficiary, is liable only to make good whatever is lost to the beneficiary by his error.

1532. Cotrustees, how far liable for each other.—A trustee is responsible for the wrongful acts of a cotrustee to which he consented, or which, by his negligence, he enabled the latter to commit, but for no others.

Cross-Reference

Compare with section 1572 of this title.

ARTICLE 3.—OBLIGATIONS OF THIRD PERSONS

Sec.
1541. Third persons, when involuntary trustees.
1542. When third person must see to application of trust property.

1541. Third persons, when involuntary trustees.—Everyone to whom property is transferred in violation of a trust, holds the same as an involuntary trustee under such trust, unless he purchased it in good faith, and for a valuable consideration.

Cross-Reference

Involuntary trustees, who are, see sections 1503, 1509 and 1510 of this title.

1542. When third person must see to application of trust property.—One who actually and in good faith transfers any money or other property to a trustee, as such, is not bound to see to the application thereof, and his rights can in no way be prejudiced by a misapplication thereof by the trustee. Other persons must, at their peril, see to the proper application of money or other property paid or delivered by them.

CHAPTER 50.—TRUSTS FOR BENEFIT OF THIRD PERSONS

Art.		Sec.
1.	Nature and creation of the trust	1551
2.	Obligations of trustees	1561
3.	Powers of trustees	1571
4.	Rights of trustees	1581
5.	Termination of the trust	1591
6.	Succession or appointment of new trustees	1601

ARTICLE 1.—NATURE AND CREATION OF THE TRUST

Sec.
1551. Who are trustees within scope of this chapter.
1552. Creation of trust.
1553. Trustees appointed by court.
1554. Declaration of trust.
1555. Same.

Section 1551. Who are trustees within scope of this chapter.—The provisions of this chapter apply only to express trusts, created for the benefit of another than the trustor, and in which the title to the trust property is vested in the trustee; not including, however, those of executors, administrators, and guardians, as such.

1552. Creation of trust.—The mutual consent of a trustor and trustee creates a trust of which the beneficiary may take advantage at any time prior to its rescission.

CROSS-REFERENCES

Promise for benefit of third person, see section 814 of this title.
Revoking trust, beneficiary's consent necessary, see section 1592 of this title.

1553. Trustees appointed by court.—When a trustee is appointed by a court or public officer, as such, such court or officer is the trustor, within the meaning of the next preceding section.

1554. Declaration of trust.—The nature, extent, and object of a trust are expressed in the declaration of trust.

1555. Same.—All declarations of a trustor to his trustees, in relation to the trust, before its acceptance by the trustees, or any of them, are to be deemed part of the declaration of the trust, except that when a declaration of trust is made in writing, all previous declarations by the same trustor are merged therein.

ARTICLE 2.—OBLIGATIONS OF TRUSTEES

Sec.
1561. Trustees must obey declaration of trust.
1562. Degree of care and diligence in execution of trust.
1563. Duty of trustee as to appointment of successor.
1564. Investment of money by trustee.
1565. Interest, simple or compound, on omission to invest trust moneys.
1566. Purchase by trustee of claims against trust fund.

1561. Trustees must obey declaration of trust.—A trustee must fulfill the purpose of the trust, as declared at its creation, and must follow all the directions of the trustor given at that time, except as modified by the consent of all parties interested, in the same manner, and to the same extent, as an employee.

CROSS-REFERENCES

Authority of trustee, generally, see section 1571 of this title.
Trustee not to profit or lose, see title 4, section 1563.

1562. Degree of care and diligence in execution of trust.—A trustee, whether he receives any compensation or not, must use at least ordinary care and diligence in the execution of his trust.

Cross-Reference

Obligations of trustees, see, generally, sections 1521 et seq., of this title.

1563. Duty of trustee as to appointment of successor.—If a trustee procures or assents to his discharge from his office, before his trust is fully executed, he must use at least ordinary care and diligence to secure the appointment of a trustworthy successor before accepting his own final discharge.

Cross-Reference

Succession or appointment of new trustees, see sections 1601 et seq., of this title.

1564. Investment of money by trustee.—A trustee must invest money received by him under the trust, as fast as he collects a sufficient amount, in such manner as to afford reasonable security and interest for the same.

Cross-Reference

Liability for interest or failure to invest funds, see section 1565 of this title.

1565. Interest, simple or compound, on omission to invest trust moneys.—If a trustee omits to invest the trust moneys according to the next preceding section, he must pay simple interest thereon, if such omission is negligent merely, and compound interest if it is willful.

Cross-Reference

Trustee's liability for interest, compare with section 1530 of this title.

1566. Purchase by trustee of claims against trust fund.—A trustee cannot enforce any claim against the trust property which he purchases after or in contemplation of his appointment as trustee; but he may be allowed, by any competent court, to charge to the trust property what he has in good faith paid for the claim, upon discharging the same.

Cross-Reference

Purchasing debts against the trust estate prohibited, see section 1523 of this title.

ARTICLE 3.—POWERS OF TRUSTEES

Sec.
1571. Trustee's powers as agent.
1572. All must act.
Sec.
1573. Discretionary powers.

1571. Trustee's powers as agent.—A trustee is a general agent for the trust property. His authority is such as is conferred upon him by the declaration of trust and by this chapter, and none other. His acts, within the scope of his authority, bind the trust property to the same extent as the acts of an agent bind his principal.

Cross-References

Agent's acts binding principal, see sections 1651 et seq., of this title.
For what purposes trusts may be created, see section 1506 of this title.
Powers to two or more trustees, see section 1572 of this title.

1572. All must act.—Where there are several cotrustees, all must unite in any act to bind the trust property, unless the declaration of trust otherwise provides.

CROSS-REFERENCES

Liability for acts of cotrustee, see section 1532 of this title.
Survival of trust, see section 1602 of this title.
Executors, when one or majority may act, see title 4, section 1289.

1573. Discretionary powers.—A discretionary power conferred upon a trustee is presumed not to be left to his arbitrary discretion, but may be controlled by the proper court if not reasonably exercised, unless an absolute discretion is clearly conferred by the declaration of trust.

ARTICLE 4.—RIGHTS OF TRUSTEES

Sec.
1581. Indemnification of trustee.
1582. Compensation of trustee.
1583. Involuntary trustee.

1581. Indemnification of trustee.—A trustee is entitled to the repayment, out of the trust property, of all expenses actually and properly incurred by him in the performance of his trust. He is entitled to the repayment of even unlawful expenditures, if they were productive of actual benefit to the estate.

CROSS-REFERENCE

Reimbursement on purchase of claims against estate, see section 1566 of this title.

1582. Compensation of trustee.—Except as provided in section 1672 of title 4, when a declaration of trust is silent upon the subject of compensation the trustee is entitled to the same compensation as an executor. If it specifies the amount of his compensation, he is entitled to the amount thus specified and no more. If it directs that he shall be allowed a compensation but does not specify the rate or amount, he is entitled to such compensation as may be reasonable under the circumstances. If there are two or more trustees, the compensation shall be apportioned among the trustees according to the services rendered by them respectively.

CROSS-REFERENCE

Involuntary trustee entitled to no compensation when, see section 1583 of this title.
Compensation of executors, see title 4, section 1567.

1583. Involuntary trustee.—An involuntary trustee, who becomes such through his own fault, has none of the rights mentioned in this article.

CROSS-REFERENCE

Involuntary trustee, defined, see sections 1503, 1509 and 1510 of this title.

ARTICLE 5.—TERMINATION OF THE TRUST

Sec.
1591. Trust, how extinguished.
1592. Not revocable.
1593. Trustee's office, how vacated.

Sec.
1594. Trustee, how discharged.
1595. Removal by district court.

1591. Trust, how extinguished.—A trust is extinguished by the entire fulfillment of its object, or by such object becoming impossible or unlawful.

1592. Not revocable.—A trust cannot be revoked by the trustor after its acceptance, actual or presumed, by the trustee and beneficiaries, except by the consent of all the beneficiaries, unless the declaration of trust reserves a power of revocation to the trustor, and in that case the power must be strictly pursued.

1593. Trustee's office, how vacated.—The office of a trustee is vacated—

1. By his death; or
2. By his discharge.

1594. Trustee, how discharged.—A trustee can be discharged from his trust only as follows:

1. By the extinction of the trust;
2. By the completion of his duties under the trust;
3. By such means as may be prescribed by the declaration of trust;
4. By the consent of the beneficiary, if he have capacity to contract;
5. By the judgment of a competent tribunal, in a direct proceeding for that purpose, that he is of unsound mind; or
6. By the district court.

1595. Removal by district court.—The district court may remove any trustee who has violated or is unfit to execute the trust, or may accept the resignation of a trustee.

CROSS-REFERENCE

Removal for adverse interest, see section 1526 of this title.

ARTICLE 6.—SUCCESSION OR APPOINTMENT OF NEW TRUSTEES

Sec.
1601. Appointment of trustee by court to fill vacancy.
1602. Survivorship between cotrustees.

Sec.
1603. District court to appoint trustee when.

1601. Appointment of trustee by court to fill vacancy.—The district court must appoint a trustee whenever there is a vacancy, and the declaration of trust does not provide a practical method of appointment. In all cases of appointment of any trustee or trustees by any court, if the cestui que trustent, or any one of them are of the age of fourteen years, they, or the one or more of them of the age of fourteen years, may make nomination, to the court, and unless such nominee or nominees are incompetent, upon one or more of the grounds of incompetency specified in Title 4, The Code of Civil Procedure, to discharge the duties of trustee, the court must appoint such nominee, or nominees, as trustee, or trustees, as the case may be.

1602. Survivorship between cotrustees.—On the death, renunciation, or discharge of one of several cotrustees the trust survives to the others.

1603. District court to appoint trustee when.—When a trust exists without any appointed trustee, or where all the trustees renounce, die, or are discharged, the district court must appoint another trustee and direct the execution of the trust. The court may, in its discretion, appoint the original number, or any less number of trustees.

CHAPTER 51.—AGENCY IN GENERAL

Art. Sec.
1. Definition of agency 1611
2. Authority of agents 1621
3. Mutual obligations of principals and third persons 1651
4. Obligations of agents to third persons 1671
5. Delegation of agency 1681
6. Termination of agency 1691

ARTICLE 1.—DEFINITION OF AGENCY

Sec.
1611. Agency, what.
1612. Who may appoint, and who may be an agent.
1613. Agents, general or special.
1614. Agency, actual or ostensible.
1615. Actual agency.
1616. Ostensible agency.

Section 1611. Agency, what.—An agent is one who represents another, called the principal, in dealings with third persons. Such representation is called agency.

CROSS-REFERENCES

Agents, see sections 1361 to 1364 of this title.
Factors, see sections 1371 et seq., of this title.

1612. Who may appoint, and who may be an agent.—Any person having capacity to contract may appoint an agent, and any person may be an agent.

1613. Agents, general or special.—An agent for a particular act or transaction is called a special agent. All others are general agents.

1614. Agency, actual or ostensible.—An agency is either actual or ostensible.

CROSS-REFERENCES

Actual agent's authority, see sections 1632, 1633, and 1636 of this title.
Ostensible agent's authority, see sections 1632, 1634 to 1636, and 1655 of this title.

1615. Actual agency.—An agency is actual when the agent is really employed by the principal.

1616. Ostensible agency.—An agency is ostensible when the principal intentionally, or by want of ordinary care, causes a third person to believe another to be his agent who is not really employed by him.

CROSS-REFERENCE

Compare section 1634 of this title.

ARTICLE 2.—AUTHORITY OF AGENTS

Sec.
1621. What authority may be conferred.
1622. Agent may perform acts required of principal by this title.
1623. Agent cannot have authority to defraud principal.
1624. Creation of agency.
1625. Consideration unnecessary.
1626. Form of authority.
1627. Ratification of part of a transaction.
1628. Ratification of agent's act.
1629. When ratification void.
1630. Ratification not to work injury to third persons.
1631. Rescission of ratification.
1632. Measure of agent's authority.
1633. Actual authority, what.
1634. Ostensible authority, what.
1635. Agent's authority as to persons having notice of restrictions upon it.
1636. Agent's necessary authority.
1637. Agent's power to disobey instructions.
1638. Authority to be construed by its specific rather than by its general terms.
1639. Exceptions to general authority.
1640. What included in authority to sell personal property.
1641. Authority of general agent to receive price of property.
1642. Authority of special agent to receive price.

1621. What authority may be conferred.—An agent may be authorized to do any acts which his principal might do, except those to which the latter is bound to give his personal attention.

CROSS-REFERENCE

Delegation of authority by agent, see sections 1681 to 1683 of this title.

1622. Agent may perform acts required of principal by this title.—Every act which, according to this title, may be done by or to any person, may be done by or to the agent of such person for that purpose, unless a contrary intention clearly appears.

1623. Agent cannot have authority to defraud principal.—An agent can never have authority, either actual or ostensible, to do an act which is, and is known or suspected by the person with whom he deals, to be a fraud upon the principal.

1624. Creation of agency.—An agency may be created, and an authority may be conferred by a precedent authorization or a subsequent ratification.

1625. Consideration unnecessary.—A consideration is not necessary to make an authority, whether precedent or subsequent, binding upon the principal.

1626. Form of authority.—An oral authorization is sufficient for any purpose, except that an authority to enter into a contract required by law to be in writing can only be given by an instrument in writing.

CROSS-REFERENCES

Power of attorney to execute mortgage, see section 2242 of this title.
Statute of frauds, see sections 886 and 984 of this title.

1627. Ratification of part of a transaction.—Ratification of part of an indivisible transaction is a ratification of the whole.

1628. Ratification of agent's act.—A ratification can be made only in the manner that would have been necessary to confer an original authority for the act ratified, or where an oral authorization would suffice, by accepting or retaining the benefit of the act with notice thereof.

CROSS-REFERENCES

Ratification of part, see section 1627 of this title.
Ratification is not binding, and may be rescinded, if made without full knowledge of the facts, see section 1631 of this title.

1629. When ratification void.—A ratification is not valid unless, at the time of ratifying the act done, the principal has power to confer authority for such an act.

1630. Ratification not to work injury to third persons.—No unauthorized act can be made valid, retroactively, to the prejudice of third persons, without their consent.

1631. Rescission of ratification.—A ratification may be rescinded when made without such consent as is required in a contract, or with an imperfect knowledge of the material facts of the transaction ratified, but not otherwise.

1632. Measure of agent's authority.—An agent has such authority as the principal, actually or ostensibly, confers upon him.

CROSS-REFERENCES

Actual agent, defined, see section 1615 of this title.
Extent of authority, see sections 1635 to 1637 and 1651 of this title.
Ostensible agency, see sections 1634 to 1636, 1651 and 1655 of this title.

1633. Actual authority, what.—Actual authority is such as a principal intentionally confers upon the agent, or intentionally, or by want of ordinary care, allows the agent to believe himself to possess.

1634. Ostensible authority, what.—Ostensible authority is such as a principal, intentionally or by want of ordinary care, causes or allows a third person to believe the agent to possess.

CROSS-REFERENCES

Estoppel from a subsequent ratification, see sections 1624, 1628 and 1629 to 1631 of this title.
Ostensible agent, defined, see section 1616 of this title.

1635. Agent's authority as to persons having notice of restrictions upon it.—Every agent has actually such authority as is defined by this chapter and chapter 52 of this title, unless specially deprived thereof by his principal, and has even then such authority ostensibly, except as to persons who have actual or constructive notice of the restriction upon his authority.

CROSS-REFERENCE

Extent of authority, see sections 1632, 1636, 1637 and 1651 of this title.

1636. Agent's necessary authority.—An agent has authority—

1. To do everything necessary or proper and usual, in the ordinary course of business, for effecting the purpose of his agency; and

2. To make a representation respecting any matter of fact, not including the terms of his authority, but upon which his right to use his authority depends, and the truth of which cannot be determined by the use of reasonable diligence on the part of the person to whom the representation is made.

CROSS-REFERENCE

Extent of authority, see sections 1632, 1635, 1637 and 1651 of this title.

1637. Agent's power to disobey instructions.—An agent has power to disobey instructions in dealing with the subject of the agency, in cases where it is clearly for the interests of his principal that he should do so, and there is not time to communicate with the principal.

Cross-Reference

Extent of authority, see sections 1632, 1635, 1636 and 1651 of this title.

1638. Authority to be construed by its specific rather than by its general terms.—When an authority is given partly in general and partly in specific terms, the general authority gives no higher powers than those specifically mentioned.

1639. Exceptions to general authority.—An authority expressed in general terms, however broad, does not authorize an agent—

1. To act in his own name, unless it is the usual course of business to do so;
2. To define the scope of his agency; or
3. To do any act which a trustee is forbidden to do by sections 1521 to 1532 of this title.

Cross-References

Defining scope of agency, see section 1636 of this title.
Obligation of trustees, see sections 1521 to 1532 of this title.

1640. What included in authority to sell personal property.—An authority to sell personal property includes authority to warrant the title of the principal and the quality and quantity of the property.

1641. Authority of general agent to receive price of property.—A general agent to sell, who is intrusted by the principal with the possession of the thing sold, has authority to receive the price.

Cross-Reference

Agent to collect, see section 1363 of this title.

1642. Authority of special agent to receive price.—A special agent to sell has authority to receive the price on delivery of the thing sold, but not afterwards.

ARTICLE 3.—MUTUAL OBLIGATIONS OF PRINCIPALS AND THIRD PERSONS

Sec.
1651. Principal, how affected by acts of agent within the scope of his authority.
1652. Principal, when bound by incomplete execution of authority.
1653. Notice to agent, when notice to principal.
1654. Obligation of principal when agent exceeds his authority.
1655. For acts done under a merely ostensible authority.
Sec.
1656. When exclusive credit is given to agent.
1657. Rights of person who deals with agent without knowledge of agency.
1658. Instrument intended to bind principal does bind him.
1659. Principal's responsibility for agent's negligence, wrongful act, or omission.
1660. Same.

1651. Principal, how affected by acts of agent within the scope of his authority.—An agent represents his principal for all purposes within the scope of his actual or ostensible authority, and all the rights and liabilities which would accrue to the agent from transactions within such limit, if they had been entered into on his own account, accrue to the principal.

Cross-Reference

Extent of agent's authority, see sections 1632, and 1635 to 1637 of this title.

1652. Principal, when bound by incomplete execution of authority.—A principal is bound by an incomplete execution of an authority when it is consistent with the whole purpose and scope thereof, but not otherwise.

1653. Notice to agent, when notice to principal.—As against a principal, both principal and agent are deemed to have notice of whatever either has notice of, and ought, in good faith and the exercise of ordinary care and diligence, to communicate to the other.

1654. Obligation of principal when agent exceeds his authority.—When an agent exceeds his authority, his principal is bound by his authorized acts so far only as they can be plainly separated from those which are unauthorized.

1655. For acts done under a merely ostensible authority.—A principal is bound by acts of his agent, under a merely ostensible authority, to those persons only who have in good faith, and without want of ordinary care, incurred a liability or parted with value, upon the faith thereof.

CROSS-REFERENCE

Ostensible authority, see sections 1634 to 1636 of this title.

1656. When exclusive credit is given to agent.—If exclusive credit is given to an agent by the person dealing with him, his principal is exonerated by payment or other satisfaction made by him to his agent in good faith, before receiving notice of the creditor's election to hold him responsible.

1657. Rights of person who deals with agent without knowledge of agency.—One who deals with an agent without knowing or having reason to believe that the agent acts as such in the transaction, may set off against any claim of the principal arising out of the same, all claims which he might have set off against the agent before notice of the agency.

1658. Instrument intended to bind principal does bind him.—An instrument within the scope of his authority by which an agent intends to bind his principal, does bind him if such intent is plainly inferable from the instrument itself.

1659. Principal's responsibility for agent's negligence, wrongful act, or omission.—Unless required by or under the authority of law to employ that particular agent, a principal is responsible to third persons for the negligence of his agent in the transaction of the business of the agency, including wrongful acts committed by such agent in and as a part of the transaction of such business, and for his willful omission to fulfill the obligations of the principal.

1660. Same.—A principal is responsible for no other wrongs committed by his agent than those mentioned in the next preceding section, unless he has authorized or ratified them, even though they are committed while the agent is engaged in his service.

ARTICLE 4.—OBLIGATIONS OF AGENTS TO THIRD PERSONS

Sec.
1671. Warranty of authority.
1672. Agent's responsibility to third persons.
1673. Obligation of agent to surrender property to third person.
1674. This article subject to chapter on persons.

1671. Warranty of authority.—One who assumes to act as an agent thereby warrants, to all who deal with him in that capacity, that he has the authority which he assumes.

CROSS-REFERENCE

Damages for breach of warranty of authority, see section 2657 of this title.

1672. Agent's responsibility to third persons.—One who assumes to act as an agent is responsible to third persons as a principal for his acts in the course of his agency, in any of the following cases, and in no others:

1. When, with his consent, credit is given to him personally in a transaction;
2. When he enters into a written contract in the name of his principal, without believing, in good faith, that he has authority to do so; or
3. When his acts are wrongful in their nature.

1673. Obligation of agent to surrender property to third person.—If an agent receives anything for the benefit of his principal, to the possession of which another person is entitled, he must, on demand, surrender it to such person, or so much of it as he has under his control, at the time of demand, on being indemnified for any advance which he has made to his principal, in good faith, on account of the same; and is responsible therefor, if, after notice from the owner, he delivers it to his principal.

CROSS-REFERENCE

Compare with sections on deposit, see sections 1101, 1104, and 1105 of this title.

1674. This article subject to chapter on persons.—The provisions of this article are subject to the provisions of sections 21 to 34 of this title.

ARTICLE 5.—DELEGATION OF AGENCY

Sec.
1681. Agent's delegation of his powers.
1682. Agent's unauthorized employment of subagent.
1683. Subagent, rightfully appointed, represents principal.

1681. Agent's delegation of his powers.—An agent, unless specially forbidden by his principal to do so, can delegate his powers to another person in any of the following cases, and in no others—

1. When the act to be done is purely mechanical;
2. When it is such as the agent cannot himself, and the subagent can lawfully perform;
3. When it is the usage of the place to delegate such powers; or
4. When such delegation is specially authorized by the principal.

1682. Agent's unauthorized employment of subagent.—If an agent employs a subagent without authority, the former is a principal and the latter his agent, and the principal of the former has no connection with the latter.

CROSS-REFERENCE

As to liability of agent of an agent to principal, see section 1364 of this title.

1683. Subagent, rightfully appointed, represents principal.—A subagent, lawfully appointed, represents the principal in like manner with the original agent; and the original agent is not responsible to third persons for the acts of the subagent.

ARTICLE 6.—TERMINATION OF AGENCY

Sec.
1691. Termination of agency.
1692. Same.

1691. Termination of agency.—An agency is terminated, as to every person having notice thereof, by—

1. The expiration of its term;
2. The extinction of its subject;
3. The death of the agent;
4. His renunciation of the agency; or
5. The incapacity of the agent to act as such.

1692. Same.—Unless the power of an agent is coupled with an interest in the subject of the agency, it is terminated, as to every person having notice thereof, by—

1. Its revocation by the principal;
2. His death; or
3. His incapacity to contract.

CHAPTER 52.—FACTORS

Sec.
1701. Factor, what.
1702. Actual authority of factor.
1703. Ostensible authority.

Section 1701. Factor, what.—A factor is an agent, as defined by section 1371 of this title.

1702. Actual authority of factor.—In addition to the authority of agents in general, a factor has actual authority from his principal, unless specially restricted—

1. To insure property consigned to him uninsured;
2. To sell, on credit, anything intrusted to him for sale, except such things as it is contrary to usage to sell on credit; but not to pledge, mortgage, or barter the same; and
3. To delegate his authority to his partner or servant, but not to any person in an independent employment.

CROSS-REFERENCE

Sale on credit by factor, see section 1373 of this title.

1703. Ostensible authority.—A factor has ostensible authority to deal with the property of his principal as his own, in transactions with persons not having notice of the actual ownership.

CHAPTER 53.—PARTNERSHIP IN GENERAL

Art.	Sec.
1. What constitutes a partnership	1711
2. Partnership property	1721
3. Mutual obligation of partners	1731
4. Renunciation of partnership	1741

ARTICLE 1.—WHAT CONSTITUTES A PARTNERSHIP

Sec.
1711. Partnership, what.
1712. Shipowners.
1713. Formation of partnership.

Section 1711. Partnership, what.—Partnership is the association of two or more persons, for the purpose of carrying on business together, and dividing its profits between them.

CROSS-REFERENCES

Dividing profits implies division of losses, see section 1724 of this title.
General partnership, what, see section 1751 of this title.

1712. Shipowners.—Part owners of a ship do not, by simply using it in a joint enterprise, become partners as to the ship.

1713. Formation of partnership.—A partnership can be formed only by the consent of all the parties thereto, and therefore no new partner can be admitted into a partnership without the consent of every existing member thereof.

CROSS-REFERENCE

Formation of special partnership, see sections 1811 et seq., of this title.

ARTICLE 2.—PARTNERSHIP PROPERTY

Sec.
1721. Partnership property, what.
1722. Partner's interest in partnership property.
1723. Partner's share in profits and losses.
1724. When division of losses implied.
1725. Partner may require application of partnership property to payment of debts.
1726. What property is partnership property by presumption.

1721. Partnership property, what.—The property of a partnership consists of all that is contributed to the common stock at the formation of the partnership, and all that is subsequently acquired thereby.

1722. Partner's interest in partnership property.—The interest of each member of a partnership extends to every portion of its property.

1723. Partner's share in profits and losses.—In the absence of any agreement on the subject the shares of partners in the profit or loss of the business are equal, and the share of each in the partnership property is the value of his original contributions, increased or diminished by his share of profit or loss.

CROSS-REFERENCE

Accounting between partners, see section 1733 of this title.

1724. When division of losses implied.—An agreement to divide the profits of a business implies an agreement for a corresponding division of its losses, unless it is otherwise expressly stipulated.

1725. Partner may require application of partnership property to payment of debts.—Each member of a partnership may require its property to be applied to the discharge of its debts, and has a lien upon the shares of the other partners for this purpose, and for the payment of the general balance, if any, due to him.

1726. What property is partnership property by presumption.—Property acquired with partnership funds is presumed to be partnership property.

ARTICLE 3.—MUTUAL OBLIGATION OF PARTNERS

Sec.
1731. Partners trustees for each other.
1732. Good faith to be observed between them.
1733. Mutual liability of partners to account.
1734. No compensation for services to firm.

1731. Partners trustees for each other.—The relations of partners are confidential. They are trustees for each other within the meaning of chapter 49 of this title, and their obligations as such trustees are defined by that chapter.

Cross-Reference

For chapter 49, see sections 1501 et seq., of this title.

1732. Good faith to be observed between them.—In all proceedings connected with the formation, conduct, dissolution, and liquidation of a partnership, every partner is bound to act in the highest good faith toward his copartners. He may not obtain any advantage over them in the partnership affairs by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind.

Cross-References

In what business partner may not engage, see section 1772 of this title.
Mutual obligations of partners, see sections 1771 et seq., of this title.
Partner's act in bad faith, effect of, see section 1764 of this title.
Fraud in affairs of partnership, see title 5, section 704.

1733. Mutual liability of partners to account.—Each member of a partnership must account to it for everything that he receives on account thereof, and is entitled to reimbursement therefrom for everything that he properly expends for the benefit thereof, and to be indemnified thereby for all losses and risks which he necessarily incurs on its behalf.

Cross-Reference

Partner's acts bind firm, see section 1762 of this title.

1734. No compensation for services to firm.—A partner is not entitled to any compensation for services rendered by him to the partnership, except by special agreement.

ARTICLE 4.—RENUNCIATION OF PARTNERSHIP

Sec.
1741. Renunciation of future profits exonerates from liability.
1742. Effect of renunciation.

1741. Renunciation of future profits exonerates from liability.—A partner may exonerate himself from all future liability to a third person, on account of the partnership, by renouncing, in good faith, all participation in its future profits, and giving notice to such third person, and to his own copartners, that he has made such renunciation, and that, so far as may be in his power, he dissolves the partnership and does not intend to be liable on account thereof for the future.

CROSS-REFERENCE

Dissolution of partnership, see sections 1791 et seq., of this title.

1742. Effect of renunciation.—After a partner has given notice of his renunciation of the partnership, he can not claim any of its subsequent profits, and his copartners may proceed to dissolve the partnership.

CROSS-REFERENCES

Dissolution of partnership, see section 1791 of this title.
Liquidation of partnership, see sections 1801 et seq., of this title.

CHAPTER 54.—GENERAL PARTNERSHIP

Art. Sec.
1. What is a general partnership 1751
2. Powers and authority of partners 1761
3. Mutual obligations of partners 1771
4. Liability of partners 1781
5. Termination of partnership 1791
6. Liquidation 1801

ARTICLE 1.—WHAT IS A GENERAL PARTNERSHIP

Section 1751. General partnership, what.—Every partnership that is not formed in accordance with the law concerning special partnerships, and every special partnership, so far only as the general partners are concerned, is a general partnership.

CROSS-REFERENCES

Partnership, what, see section 1711 of this title.
Special partnerships, see section 1811 to 1844 of this title.
Special partnership becomes general partnership when, see section 1843 of this title.

ARTICLE 2.—POWERS AND AUTHORITY OF PARTNERS

Sec.
1761. Power of majority of partners.
1762. Authority of individual partners.
1763. What authority partner has not.
1764. Partner's acts in bad faith, when ineffectual.

1761. Power of majority of partners.—Unless otherwise expressly stipulated, the decision of the majority of the members of a general partnership binds it in the conduct of its business.

CROSS-REFERENCE

Powers, rights, and duties of special partners, see sections 1821 et seq., of this title.

1762. Authority of individual partner.—Every general partner is agent for the partnership in the transaction of its business, and has authority to do whatever is necessary to carry on such business in the ordinary manner, and for this purpose may bind his copartners by an agreement in writing.

CROSS-REFERENCES

Common liability for losses, see section 1733 of this title.
Liability of partners for each other's acts, see section 1782 of this title.
Declarations of partners, admissibility of, see title 4, section 1888.

1763. What authority partner has not.—A partner, as such, has not authority to do any of the following acts unless his copartners have wholly abandoned the business to him or are incapable of acting:

1. To make an assignment of the partnership property or any portion thereof to a creditor, or to a third person in trust for the benefit of a creditor, or of all creditors;
2. To dispose of the good will of the business;
3. To dispose of the whole of the partnership property at once, unless it consists entirely of merchandise;
4. To do any act which would make it impossible to carry on the ordinary business of the partnership;
5. To confess a judgment;
6. To submit a partnership claim to arbitration; or
7. To do any other act not within the scope of section 1762 of this title.

1764. Partner's acts in bad faith, when ineffectual.—A partner is not bound by any act of a copartner, in bad faith toward him, though within the scope of the partner's powers, except in favor of persons who have in good faith parted with value in reliance upon such act.

CROSS-REFERENCES

Good faith, duty to observe, see section 1732 of this title.
Liability of partners for each other's acts, see section 1782 of this title.
Partners are trustees for each other, see section 1731 of this title.

ARTICLE 3.—MUTUAL OBLIGATIONS OF PARTNERS

Sec.
1771. Profits of individual partner.
1772. In what business partner may not engage.
1773. In what he may engage.
1774. Must account to firm for profits.

1771. Profits of individual partner.—All profits made by a general partner, in the course of any business usually carried on by the partnership, belong to the firm.

CROSS-REFERENCE

Mutual obligations of partners, see sections 1731 et seq., of this title.

1772. In what business partner may not engage.—A general partner who agrees to give his personal attention to the business of the partnership may not engage in any business which gives him an interest adverse to that of the partnership or which prevents him from giving to such business all the attention which would be advantageous to it.

CROSS-REFERENCE

Accounting by partner, see section 1774 of this title.

1773. In what he may engage.—A partner may engage in any separate business except as otherwise provided by sections 1771 and 1772 of this title.

1774. Must account to firm for profits.—A general partner transacting business contrary to the provisions of this article may be required by any copartner to account to the partnership for the profits of such business.

ARTICLE 4.—LIABILITY OF PARTNERS

Sec.
1781. Liability of partners to third persons.
1782. Liability for each other's acts as agents.
Sec.
1783. Liability of one held out as partner.
1784. No one liable as partner unless held out as such.

1781. Liability of partners to third persons.—Every general partner is liable to third persons for all the obligations of the partnership, jointly with his copartners.

CROSS-REFERENCES

As to joint and several obligations generally, see sections 681 et seq., of this title.

Effect of release of one of several joint debtors, see section 793 of this title.

Liability of general partners in special partnership, see section 1831 of this title.

Liability of special partners, see section 1832 of this title.

Proceedings against joint debtors generally, see title 4, sections 901 et seq.

Special partner liable as general partner when, see section 1833 of this title.

1782. Liability for each other's acts as agents.—The liability of general partners for each other's acts is defined by chapter 51 of this title on agency.

CROSS-REFERENCES

Acts a partner is not authorized to do, see section 1763 of this title.

Authority of individual partner, see section 1762 of this title.

Effect of acts of partner done in bad faith, see section 1764 of this title.

Agency, see sections 1611 to 1692 of this title.

Declarations of partners, admissibility of, see title 4, section 1888.

1783. Liability of one held out as partner.—Anyone permitting himself to be represented as a partner, general or special, is liable, as such, to third persons to whom such representation is communicated, and who, on the faith thereof, give credit to the partnership.

1784. No one liable as partner unless held out as such.—No one is liable as a partner who is not such in fact, except as provided in the next preceding section.

ARTICLE 5.—TERMINATION OF PARTNERSHIP

Sec.
1791. Duration of partnership.
1792. Total dissolution of partnership.
1793. Partial dissolution.
Sec.
1794. Partner entitled to dissolution.
1795. Notice of termination.
1796. Notice by change of name.

1791. Duration of partnership.—If no term is prescribed by agreement for its duration, a general partnership continues until dissolved by a partner or by operation of law.

CROSS-REFERENCES

Dissolution of special partnership, see section 1843 of this title.

Liquidation of partnership, see sections 1801 et seq., of this title.

Renunciation of partnership by partner, see sections 1741 and 1742 of this title.

1792. Total dissolution of partnership.—A general partnership is dissolved as to all the partners—

1. By lapse of the time prescribed by agreement for its duration;
2. By the expressed will of any partner, if there is no such agreement;
3. By the death of a partner;
4. By the transfer to a person, not a partner, of the interest of any partner in the partnership property;
5. By war, or the prohibition of commercial intercourse between the country in which one partner resides and that in which another resides; or
6. By a judgment of dissolution.

CROSS-REFERENCES

Partner's power after dissolution of firm, see sections 1801 et seq., of this title.

Renunciation of partnership by partner, see sections 1741 and 1742 of this title.

Special partnership, dissolution of, see section 1843 of this title.

Rights and duties of survivor, see title 4, section 1525.

1793. Partial dissolution.—A general partnership may be dissolved, as to himself only, by the expressed will of any partner, notwithstanding his agreement for its continuance, subject, however, to liability to his copartners for any damage caused to them thereby, unless the circumstances are such as entitle him to a judgment of dissolution.

1794. Partner entitled to dissolution.—A general partner is entitled to a judgment of dissolution—

1. When he, or another partner, becomes legally incapable of contracting;
2. When another partner fails to perform his duties under the agreement of partnership, or is guilty of serious misconduct; or
3. When the business of the partnership can be carried on only at a permanent loss.

CROSS-REFERENCE

Dissolution on renunciation of partnership by copartner, see section 1742 of this title.

1795. Notice of termination.—The liability of a general partner for the acts of his copartners continues, even after a dissolution of the copartnership, in favor of persons who have had dealings with and given credit to the partnership during its existence, until they have had personal notice of the dissolution; and in favor of other persons until such dissolution has been advertised in a newspaper printed in English and of general circulation in the Canal Zone, to the extent in either case to which such persons part with value in good faith, and in the belief that such partner is still a member of the firm.

CROSS-REFERENCE

Compare section 1843 of this title.

1796. Notice by change of name.—A change of the partnership name, which plainly indicates the withdrawal of a partner, is sufficient notice of the fact of such withdrawal to all persons to whom it is communicated; but a change in the name, which does not contain such an indication, is not notice of the withdrawal of any partner.

ARTICLE 6.—LIQUIDATION

Sec.
1801. Powers of partners after dissolution.
1802. Who may act in liquidation.
1803. Who may not act in liquidation.
1804. Powers of partners in liquidation.
1805. What partner may do in liquidation.

1801. Powers of partners after dissolution.—After the dissolution of a partnership, the powers and authority of the partners are such only as are prescribed by this article.

CROSS-REFERENCES

Dissolution of partnership, see sections 1791 et seq., of this title.
Rights and duties of surviving partner, see title 4, section 1525.
Interests of estate in partnership, see title 4, section 1505.

1802. Who may act in liquidation.—Any member of a general partnership may act in liquidation of its affairs, except as provided by the section next following.

1803. Who may not act in liquidation.—If the liquidation of a partnership is committed, by consent of all the partners, to one or more of them, the others have no right to act therein; but their acts are valid in favor of persons parting with value, in good faith, upon credit thereof.

1804. Powers of partners in liquidation.—A partner authorized to act in liquidation may collect, compromise, or release any debts due to the partnership, pay or compromise any claims against it, and dispose of the partnership property.

CROSS-REFERENCE

Powers and duties of surviving partner in liquidation, see title 4, section 1525.

1805. What partner may do in liquidation.—A partner authorized to act in liquidation may indorse, in the name of the firm, promissory notes or other obligations held by the partnership for the purpose of collecting the same, but he cannot create any new obligation in its name or revive a debt against the firm, by an acknowledgment, when an action thereon is barred under the provisions of Title 4, The Code of Civil Procedure.

CHAPTER 55.—SPECIAL PARTNERSHIP

Art. Sec.
1. Formation 1811
2. Powers, rights, and duties of partners 1821
3. Liability of partners 1831
4. Alteration and dissolution 1841

ARTICLE 1.—FORMATION

Sec.
1811. Formation of special partnership.
1812. Of what to consist.
1813. Certified statement.
1814. Acknowledged and recorded; false statement.
1815. Affidavit as to sums contributed.
1816. No partnership until compliance.
1817. Renewal of special partnership.

Section 1811. Formation of special partnership.—A special partnership may be formed by two or more persons, in the manner and with the effect prescribed in this chapter, for the transaction of any business except banking or insurance by an insurer.

CROSS-REFERENCE

No partnership until compliance with law, see section 1816 of this title.

1812. Of what to consist.—A special partnership may consist of one or more persons called general partners, and one or more persons called special partners.

1813. Certified statement.—Persons desirous of forming a special partnership must severally sign a certificate, stating:

1. The name under which the partnership is to be conducted;
2. The general nature of the business intended to be transacted;
3. The names of all the partners, and their residences, specifying which are general and which are special partners;
4. The amount of capital which each special partner has contributed to the common stock;
5. The periods at which such partnership will begin and end.

1814. Acknowledged and recorded; false statement.—Certificates under the next preceding section must be acknowledged by all the partners, before the clerk of the district court and filed in his office, and shall be open to public inspection. If any false statement is made in any such certificate, all the persons interested in the partnership are liable, as general partners, for all the engagements thereof.

CROSS-REFERENCES

Liability for false statements, see section 1832 of this title.
Liability for unintentional acts, see section 1833 of this title.

1815. Affidavit as to sums contributed.—An affidavit of each of the partners, stating that the sums specified in the certificate of the partnership as having been contributed by each of the special partners, have been actually and in good faith paid, in the lawful money of the United States, must be filed in the same office with the original certificate.

1816. No partnership until compliance.—No special partnership is formed until the provisions of sections 1811 to 1815 of this title are complied with.

1817. Renewal of special partnership.—Every renewal or continuance of a special partnership must be certified, filed, and verified in the same manner as upon its original formation.

CROSS-REFERENCE

Compare with section 1841 of this title.

ARTICLE 2.—POWERS, RIGHTS, AND DUTIES OF PARTNERS

Sec.
1821. Who to do business.
1822. Special partners may advise.
1823. May loan money; insolvency.
1824. General partners may sue and be sued.
1825. Withdrawal of capital.
1826. Interest and profits.
1827. Result of withdrawing capital.
1828. Preferential transfer void.

1821. Who to do business.—The general partners only have authority to transact the business of a special partnership.

1822. Special partners may advise.—A special partner may at all times investigate the partnership affairs, and advise his partners, or their agents, as to their management.

1823. May loan money; insolvency.—A special partner may lend money to the partnership, or advance money for it, and take from it security therefor, and as to such loans or advances has the same rights as any other creditor; but in case of the insolvency of the partnership, all other claims which he may have against it must be postponed until all other creditors are satisfied.

1824. General partners may sue and be sued.—In all matters relating to a special partnership, its general partners may sue and be sued alone, in the same manner as if there were no special partners.

1825. Withdrawal of capital.—No special partner, under any pretense, may withdraw any part of the capital invested by him in the partnership, during its continuance.

CROSS-REFERENCE

Withdrawal of capital, see section 1827 of this title.

1826. Interest and profits.—A special partner may receive such lawful interest and such proportion of profits as may be agreed upon, if not paid out of the capital invested in the partnership by him, or by some other special partner, and is not bound to refund the same to meet subsequent losses.

1827. Result of withdrawing capital.—If a special partner withdraws capital from the firm, contrary to the provisions of this article, he thereby becomes a general partner.

CROSS-REFERENCE

Withdrawal of capital, see section 1825 of this title.

1828. Preferential transfer void.—Every transfer of the property of a special partnership, or of a partner therein, made after or in contemplation of the insolvency of such partnership or partner with intent to give a preference to any creditor of such partnership or partner over any other creditor of such partnership, is void against the creditors thereof; and every judgment confessed, lien created, or security given, in like manner and with the like intent, is in like manner void.

ARTICLE 3. LIABILITY OF PARTNERS

Sec.
1831. Liability of partners.
1832. Of special partners.
1833. Liability for unintentional act.
1834. Who may question existence of special partnership.

1831. Liability of partners.—The general partners in a special partnership are liable to the same extent as partners in a general partnership.

CROSS-REFERENCE

Liability of general partners, see section 1781 of this title.

1832. Of special partners.—The contribution of a special partner to the capital of the firm, and the increase thereof, is liable for its debts, but he is not otherwise liable therefor, except as follows:

1. If he has willfully made or permitted a false or materially defective statement in the certificate of the partnership, the affidavit filed therewith, or the published announcement thereof, he is liable, as a general partner, to all creditors of the firm;
2. If he has willfully interfered with the business of the firm, except as permitted in sections 1821 to 1828 of this title, he is liable in like manner; or
3. If he has willfully joined in or assented to an act contrary to any of the provisions of said sections 1821 to 1828, he is liable in like manner.

CROSS-REFERENCE

False certificate, see section 1814 of this title.

1833. Liability for unintentional act.—When a special partner has unintentionally done any of the acts mentioned in the next preceding section, he is liable, as a general partner, to any creditor of the firm who has been actually misled thereby to his prejudice.

CROSS-REFERENCES

False statement in certificate, see sections 1814 and 1832 of this title.
Liability of general partners, see section 1781 of this title.

1834. Who may question existence of special partnership.—One who, upon making a contract with a partnership, accepts from or gives to it a written memorandum of the contract, stating that the partnership is special, and giving the names of the special partners, cannot afterwards charge the persons thus named as general partners upon that contract, by reason of an error or defect in the proceedings for the creation of the special partnership, prior to the acceptance of the memorandum, if an effort has been made by the partners, in good faith, to form a special partnership in the manner required by sections 1811 to 1817 of this title.

ARTICLE 4.—ALTERATION AND DISSOLUTION

Sec.
1841. When special partnership becomes general.
1842. How new special partners may be admitted.
1843. Dissolution of special partnership; notice.
1844. The name of a special partner not used, unless.

1841. When special partnership becomes general.—A special partnership becomes general if, within ten days after any partner withdraws from it, or any new partner is received into it, or a change is made in the nature of its business or in its name, a certificate of such fact, duly verified and signed by one or more of the partners, is not filed with the clerk of the district court.

CROSS-REFERENCE

Partner withdrawing capital becomes general partner, see section 1827 of this title.

1842. How new special partners may be admitted.—New special partners may be admitted into a special partnership upon a certificate, stating the names, residences, and contributions to the common stock of each of such partners, signed by each of them, and by the general partners, verified, acknowledged, and filed with the clerk of the district court.

1843. Dissolution of special partnership; notice.—A special partnership is subject to dissolution in the same manner as a general partnership, except that no dissolution, by the act of the partners, is complete until a notice thereof has been filed and recorded in the office of the clerk of the district court, and published once in each week, for four successive weeks, in a newspaper of general circulation in the Canal Zone.

Cross-Reference

Dissolution of general partnership, see section 1792 of this title.

1844. The name of a special partner not used, unless.—The name of a special partner must not be used in the firm name of partnership, unless it be accompanied with the word "limited."

CHAPTER 56.—INSURANCE IN GENERAL

Art.		Sec.
1.	Definition of insurance	1851
2.	What may be insured	1861
3.	Parties to contract	1871
4.	Insurable interest	1881
5.	Concealment and representations	1901
6.	The policy	1931
7.	Warranties	1951
8.	Premium	1971
9.	Loss	1981
10.	Notice of loss	1991
11.	Double insurance	2001
12.	Reinsurance	2011

Cross-Reference

Foreign insurance companies, see sections 221 et seq., of this title.

ARTICLE 1.—DEFINITION OF INSURANCE

Section 1851. Insurance, what.—Insurance is a contract whereby one undertakes to indemnify another against loss, damage, or liability, arising from an unknown or contingent event.

Cross-Reference

Reinsurance, contract of, see section 2011 of this title.

ARTICLE 2.—WHAT MAY BE INSURED

Sec.
1861. What events may be insured against.
1862. Insurance of lottery or lottery prize unauthorized.
1863. All subject to this chapter.

1861. What events may be insured against.—Any contingent or unknown event, whether past or future, which may damnify a person having an insurable interest, or create a liability against him, may be insured against, subject to the provisions of this chapter.

Cross-References

Insurable interest, see sections 1881 et seq., of this title.

Insurable interest in expectancy or inchoate interest, see sections 1882 and 1884 of this title.

1862. Insurance of lottery or lottery prize unauthorized.—The next preceding section does not authorize an insurance for or against the drawing of any lottery, or for or against any chance or ticket in a lottery drawing a prize.

CROSS-REFERENCES

Fire insurance, see sections 2021 et seq., of this title.
Life and health insurance, see sections 2031 et seq., of this title.

1863. All subject to this chapter.—All kinds of insurance, other than marine insurance, are subject to the provisions of this chapter.

ARTICLE 3.—PARTIES TO CONTRACT

Sec.
1871. Designation of parties.
1872. Who may insure.
1873. Who may be insured.
1874. Assignment to mortgagee of policy on thing insured.
1875. New contract between insurer and assignee.

1871. Designation of parties.—The person who undertakes to indemnify another by a contract of insurance is called the insurer, and the person indemnified is called the insured.

1872. Who may insure.—Anyone capable of making a contract may be an insurer, subject to the restrictions imposed by special statutes upon foreign corporations, nonresidents, and others.

CROSS-REFERENCE

Regulation of foreign insurance companies, see sections 221 et seq., of this title.

1873. Who may be insured.—Anyone except a public enemy may be insured.

1874. Assignment to mortgagee of policy on thing insured.—Unless the policy otherwise provides, where a mortgagor of property effects insurance in his own name providing that the loss shall be payable to the mortgagee, or assigns a policy of insurance to a mortgagee, the insurance is deemed to be upon the interest of the mortgagor, who does not cease to be a party to the original contract, and any act of his, prior to the loss, which would otherwise avoid the insurance will have the same effect, although the property is in the hands of the mortgagee, but any act which, under the contract of insurance, is to be performed by the mortgagor, may be performed by the mortgagee therein named, with the same effect as if it had been performed by the mortgagor.

1875. New contract between insurer and assignee.—If an insurer assents to the transfer of an insurance from a mortgagor to a mortgagee, and, at the time of his assent, imposes further obligations on the assignee, making a new contract with him, the acts of the mortgagor cannot affect his rights.

ARTICLE 4.—INSURABLE INTEREST

Sec.
1881. Insurable interest, what.
1882. In what may consist.
1883. Interest of carrier or depositary.
1884. Mere expectancies.
1885. Measure of interest in property.
1886. Insurance without interest, illegal.
1887. When interest must exist.

Sec.
1888. Effect of transfer.
1889. Transfer after loss.
1890. Exception in the case of several subjects in one policy.
1891. In the case of transfer between cotenants.
1892. Policy, when void.

1881. Insurable interest, what.—Every interest in property, or any relation thereto, or liability in respect thereof, of such a nature that a contemplated peril might directly damnify the insured is an insurable interest.

CROSS-REFERENCES

Assignment to one without insurable interest, see section 2033 of this title.
Bailees or carriers, see section 1883 of this title.
Effect of transfer of interest, see section 1888 of this title.
Extent of insurable interest, see section 1885 of this title.
Insurable interest in expectancy or inchoate interest, see sections 1861, 1882, and 1884 of this title.
Insurable interest in life or health, see section 2032 of this title.
Insurance without insurable interest is void, see section 1886 of this title.
Partner, see section 1935 of this title.
Stating insurer's interests in policy, see sections 1908 and 1932 of this title.
Stipulation for payment irrespective of insurable interest is void, see section 1892 of this title.
When insurable interest must exist, see section 1887 of this title.

1882. In what may consist.—An insurable interest in property may consist in:

1. An existing interest;
2. An inchoate interest founded on an existing interest; or
3. An expectancy, coupled with an existing interest in that out of which the expectancy arises.

CROSS-REFERENCES

Insurable interest in expectancy or inchoate interest, see sections 1861 and 1884 of this title.
What events may be insured against, see section 1861 of this title.

1883. Interest of carrier or depositary.—A carrier or depositary of any kind has an insurable interest in a thing held by him as such, to the extent of its value.

1884. Mere expectancies.—A mere contingent or expectant interest in anything, not founded on an actual right to the thing, nor upon any valid contract for it, is not insurable.

CROSS-REFERENCES

Insurable interest in expectancy or inchoate interest, see section 1882 of this title.
Unknown or contingent event, insurance against, see section 1861 of this title.

1885. Measure of interest in property.—The measure of an insurable interest in property is the extent to which the insured might be damnified by loss or injury thereof.

CROSS-REFERENCE

Insurance without interest, see section 1886 of this title.

1886. Insurance without interest, illegal.—The sole object of insurance is the indemnity of the insured, and if he has no insurable interest the contract is void.

CROSS-REFERENCE

Stipulation for payment irrespective of interest is void, see section 1892 of this title.

1887. When interest must exist.—An interest insured must exist when the insurance takes effect, and when the loss occurs, but need not exist in the meantime.

1888. Effect of transfer.—Except in the cases specified in sections 1889 to 1891 of this title, and in the cases of life, accident, and health insurance, a change of interest in any part of a thing insured, unaccompanied by a corresponding change of interest in the insurance, suspends the insurance to an equivalent extent, until the interest in the thing and the interest in the insurance are vested in the same person.

CROSS-REFERENCES

Transfer by coowner or partner, see section 1891 of this title.
Transfer of life-insurance policy, see section 2033 of this title.
Transfer of thing insured does not transfer policy, see section 1938 of this title.

1889. Transfer after loss.—A change of interest in a thing insured, after the occurrance of an injury which results in a loss, does not affect the right of the insured to indemnity for the loss.

1890. Exception in the case of several subjects in one policy.—A change of interest in one or more of several distinct things, separately insured by one policy, does not avoid the insurance as to the others.

1891. In the case of transfer between cotenants.—A transfer of interest by one of several partners, joint owners, or owners in common, who are jointly insured, to the others, does not avoid an insurance, even though it has been agreed that the insurance shall cease upon an alienation of the thing insured.

CROSS-REFERENCE

Insurance by partner or cotenant, see section 1935 of this title.

1892. Policy, when void.—Every stipulation in a policy of insurance for the payment of loss whether the person insured has or has not any interest in the property insured, or that the policy shall be received as proof of such interest and every policy executed by way of gaming or wagering, is void.

CROSS-REFERENCE

Insurance without interest is illegal, see section 1886 of this title.

ARTICLE 5.—CONCEALMENT AND REPRESENTATIONS

Sec.
1901. Concealment, what.
1902. Effect of concealment.
1903. What must be disclosed.
1904. Matters which need not be communicated without inquiry.
1905. Test of materiality.
1906. Matters which each is bound to know.
1907. Waiver of communication.
1908. Interest of insured.
1909. Fraudulent warranty.
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1911. Representation, how made.
1912. When made.
1913. How interpreted.
1914. Representation as to future.
1915. How may affect policy.
1916. When may be withdrawn.
1917. Time intended by representation.
1918. Representing information.
1919. Falsity.
1920. Effect of falsity.
1921. Materiality.
1922. Application of provisions of this article.
1923. Right to rescind.

1901. Concealment, what.—A neglect to communicate that which a party knows, and ought to communicate, is called a concealment.

CROSS-REFERENCE

"Party" refers to either party to the contract, see section 1903 of this title.

1902. Effect of concealment.—A concealment, whether intentional or unintentional, entitles the injured party to rescind a contract of insurance.

1903. What must be disclosed.—Each party to a contract of insurance must communicate to the other, in good faith, all facts within his knowledge which are or which he believes to be material to the contract, and which the other has not the means of ascertaining, and as to which he makes no warranty.

1904. Matters which need not be communicated without inquiry.—Neither party to a contract of insurance is bound to communicate information of the matters following, except in answer to the inquiries of the other:

1. Those which the other knows;
2. Those which, in the exercise of ordinary care, the other ought to know, and of which the former has no reason to suppose him ignorant;
3. Those of which the other waives communication;
4. Those which prove or tend to prove the existence of a risk excluded by a warranty, and which are not otherwise material; and
5. Those which relate to a risk excepted from the policy, and which are not otherwise material.

CROSS-REFERENCES

Facts covered by warranty, see section 1909 of this title.
Information as to nature of amount of interest, see section 1908 of this title.
Matters of opinion, see section 1910 of this title.
Waiver of communication, see section 1907 of this title.

1905. Test of materiality.—Materiality is to be determined not by the event, but solely by the probable and reasonable influence of the facts upon the party to whom the communication is due, in forming his estimate of the disadvantages of the proposed contract or in making his inquiries.

CROSS-REFERENCE

Materiality of representation, see section 1921 of this title.

1906. Matters which each is bound to know.—Each party to a contract of insurance is bound to know all the general causes which are open to his inquiry, equally with that of the other, and which may affect either the political or material perils contemplated; and all general usages of trade.

1907. Waiver of communication.—The right to information of material facts may be waived, either by the terms of insurance or by neglect to make inquiries as to such facts, where they are distinctly implied in other facts of which information is communicated.

1908. Interest of insured.—Information of the nature or amount of the interest of one insured need not be communicated unless in answer to an inquiry, except as prescribed by section 1932 of this title.

1909. Fraudulent warranty.—An intentional and fraudulent omission, on the part of one insured, to communicate information of matters proving or tending to prove the falsity of a warranty, entitles the insurer to rescind.

CROSS-REFERENCES

Effect of concealment, see section 1902 of this title.
Warranties, see sections 1951 et seq., of this title.

1910. Matters of opinion.—Neither party to a contract of insurance is bound to communicate, even upon inquiry, information of his own judgment upon the matters in question.

1911. Representation, how made.—A representation may be oral or written.

1912. When made.—A representation may be made at the same time with issuing the policy, or before it.

CROSS-REFERENCE

Warranties, see sections 1951 and 1952 of this title.

1913. How interpreted.—The language of a representation is to be interpreted by the same rules as the language of contracts in general.

CROSS-REFERENCE

Interpretation of contracts, see sections 901 et seq., of this title.

1914. Representation as to future.—A representation as to the future is to be deemed a promise, unless it appears that it was merely a statement of belief or expectation.

1915. How may affect policy.—A representation cannot be allowed to qualify an express provision in a contract of insurance, but it may qualify an implied warranty.

1916. When may be withdrawn.—A representation may be altered or withdrawn before the insurance is effected, but not afterwards.

1917. Time intended by representation.—The completion of the contract of insurance is the time to which a representation must be presumed to refer.

1918. Representing information.—When a person insured has no personal knowledge of a fact, he may nevertheless repeat information which he has upon the subject, and which he believes to be true, with the explanation that he does so on the information of others, or he may submit the information, in its whole extent, to the insurer; and in neither case is he responsible for its truth, unless it proceeds from an agent of the insured, whose duty it is to give the intelligence.

1919. Falsity.—A representation is to be deemed false when the facts fail to correspond with its assertions or stipulations.

1920. Effect of falsity.—If a representation is false in a material point, whether affirmative or promissory, the injured party is entitled to rescind the contract from the time when the representation becomes false.

1921. Materiality.—The materiality of a representation is determined by the same rule as the materiality of a concealment.

CROSS-REFERENCES

Materiality of representation, how determined, see section 1905 of this title.
Violation of material warranty, see section 1958 of this title.

1922. Application of provisions of this article.—The provisions of this article apply as well to a modification of a contract of insurance as to its original formation.

1923. Right to rescind.—Whenever a right to rescind a contract of insurance is given to the insurer by any provision of this chapter, such right may be exercised at any time previous to the commencement of an action on the contract.

ARTICLE 6.—THE POLICY

Sec.
1931. Policy, what.
1932. What must be specified in a policy.
1933. Whose interest is covered.
1934. Insurance by agent or trustee.
1935. Insurance by part owner.
1936. General terms.
1937. Successive owners.

Sec.
1938. Transfer of the thing insured.
1939. Open and valued policies.
1940. Open policy, what.
1941. Valued policy, what.
1942. Running policy, what.
1943. Effect of receipt.
1944. Agreement not to transfer.

1931. Policy, what.—The written instrument, in which a contract of insurance is set forth, is called a policy of insurance.

1932. What must be specified in a policy.—A policy of insurance must specify:

1. The parties between whom the contract is made;
2. The rate of premium;
3. The property or life insured;
4. The interest of the insured in property insured, if he is not the absolute owner thereof;
5. The risks insured against; and
6. The period during which the insurance is to continue.

1933. Whose interest is covered.—When the name of the person intended to be insured is specified in a policy, it can be applied only to his own proper interest.

CROSS-REFERENCES

Insurable interest, generally, see section 1881 of this title.
Stating interest of insured, see section 1908 of this title.

1934. Insurance by agent or trustee.—When an insurance is made by an agent or trustee, the fact that his principal or beneficiary is the person really insured may be indicated by describing him as agent or trustee, or by other general words in the policy.

1935. Insurance by part owner.—To render an insurance, effected by one partner or part owner, applicable to the interest of his copartners, or of other part owners, it is necessary that the terms of the policy should be such as are applicable to the joint or common interest.

CROSS-REFERENCE

Transfer by coowner, see section 1891 of this title.

1936. General terms.—When the description of the insured in a policy is so general that it may comprehend any person or any class of persons, he only can claim the benefit of the policy who can show that it was intended to include him.

1937. Successive owners.—A policy may be so framed that it will inure to the benefit of whomsoever, during the continuance of the risk, may become the owner of the interest insured.

1938. Transfer of the thing insured.—The mere transfer of a thing insured does not transfer the policy, but suspends it until the same person becomes the owner of both the policy and the thing insured.

CROSS-REFERENCE

Transfer of interest, see sections 1888 et seq., of this title.

1939. Open and valued policies.—A policy is either open or valued.

1940. Open policy, what.—An open policy is one in which the value of the thing insured is not agreed upon, but is left to be ascertained in case of loss.

1941. Valued policy, what.—A valued policy is one which expresses on its face an agreement that the thing insured shall be valued at a specified sum.

1942. Running policy, what.—A running policy is one which contemplates successive insurances, and which provides that the object of the policy may be from time to time defined, especially as to the subjects of insurance, by additional statements or indorsements.

1943. Effect of receipt.—An acknowledgment in a policy of the receipt of premium is conclusive evidence of its payment, so far as to make the policy binding, notwithstanding any stipulation therein that it shall not be binding until the premium is actually paid.

CROSS-REFERENCE

Premiums, in general, see sections 1971 et seq., of this title.

1944. Agreement not to transfer.—An agreement made before a loss, not to transfer the claim of a person insured against the insurer, after the loss has happened, is void.

ARTICLE 7.—WARRANTIES

Sec.
1951. Warranty, express or implied.
1952. Form.
1953. Express warranties to be in policy.
1954. Past, present, and future warranties.
1955. Express warranty, what constitutes.
Sec.
1956. Warranty as to the future.
1957. Performance excused.
1958. What acts avoid the policy.
1959. Policy may provide for avoidance.
1960. Breach without fraud.

1951. Warranty, express or implied.—A warranty is either express or implied.

CROSS-REFERENCE

Express warranties to be in policy, see section 1953 of this title.

1952. Form.—No particular form of words is necessary to create a warranty.

1953. Express warranties to be in policy.—Every express warranty, made at or before the execution of a policy, must be contained in the policy itself, or in another instrument signed by the insured and referred to in the policy, as making a part of it.

CROSS-REFERENCE

Representations, see sections 1911 et seq., of this title.

1954. Past, present, and future warranties.—A warranty may relate to the past, the present, the future, or to any or all of these.

1955. Express warranty, what constitutes.—A statement in a policy, of a matter relating to the person or thing insured, or to the risk, as a fact, is an express warranty thereof.

1956. Warranty as to the future.—A statement in a policy, which imports that it is intended to do or not to do a thing which materially affects the risk, is a warranty that such act or omission shall take place.

1957. Performance excused.—When before the time arrives for the performance of a warranty relating to the future, a loss insured against happens, or performance becomes unlawful at the place of the contract, or impossible, the omission to fulfill the warranty does not avoid the policy.

CROSS-REFERENCE

Rescinding contract of insurance, see section 1923 of this title.

1958. What acts avoid the policy.—The violation of a material warranty, or other material provision of a policy, on the part of either party thereto, entitles the other to rescind.

CROSS-REFERENCE

Test of the materiality of a representation, see section 1921 of this title.

1959. Policy may provide for avoidance.—A policy may declare that a violation of specified provisions thereof shall avoid it; otherwise the breach of an immaterial provision does not avoid the policy.

1960. Breach without fraud.—A breach of warranty, without fraud, merely exonerates an insurer from the time that it occurs, or where it is broken in its inception prevents the policy from attaching to the risk.

CROSS-REFERENCE

Breach of warranty without fraud, return of premium, see section 1973 of this title.

ARTICLE 8.—PREMIUM

Sec.
1971. Return of premium.
1972. When not allowed.
1973. Return for fraud.
1974. Overinsurance by several insurers.
1975. Contribution.
1976. Proportionate contribution.

1971. Return of premium.—Where the insurance is made for a definite period of time and the insured surrenders his policy, he is entitled to a return of such proportion of the premium above the customary short rate premium as corresponds with the unexpired time, after deducting from the whole premium any claim for loss or damage under the policy which has previously accrued.

CROSS-REFERENCE

Return for fraud, see section 1973 of this title.

1972. When not allowed.—If a peril insured against has existed, and the insurer has been liable for any period, however short, the insured is not entitled to return of premiums so far as that particular risk is concerned.

1973. Return for fraud.—A person insured is entitled to a return of the premium when the contract is voidable, on account of the fraud or misrepresentation of the insurer, or on account of facts, of the existence of which the insured was ignorant without his fault; or when, by any default of the insured other than actual fraud, the insurer never incurred any liability under the policy.

CROSS-REFERENCE

Return of premium, see section 1971 of this title.

1974. Overinsurance by several insurers.—In case of an overinsurance by several insurers, the insured is entitled to a ratable return of the premium, proportioned to the amount by which the aggregate sum insured in all the policies exceeds the insurable value of the thing at risk.

CROSS-REFERENCE

Double insurance, defined, see section 2001 of this title.

1975. Contribution.—When an overinsurance is effected by simultaneous policies, the insurers contribute to the premium to be returned in proportion to the amount insured by their respective policies.

CROSS-REFERENCE

Contribution in cases of double insurance, see section 2002 of this title.

1976. Proportionate contribution.—When an overinsurance is effected by successive policies, those only contribute to a return of the premium who are exonerated by prior insurance from the liability assumed by them, and in proportion as the sum for which the premium was paid exceeds the amount for which, on account of prior insurance, they could be made liable.

ARTICLE 9.—LOSS

Sec.
1981. Perils, remote and proximate.
1982. Loss incurred in rescue from peril.
1983. Excepted perils.
1984. Negligence and fraud.

1981. Perils, remote and proximate.—An insurer is liable for a loss of which a peril insured against was the proximate cause, although a peril not contemplated by the contract may have been a remote cause of the loss; but he is not liable for a loss of which the peril insured against was only a remote cause.

CROSS-REFERENCE

Negligence of insured, see section 1984 of this title.

1982. Loss incurred in rescue from peril.—An insurer is liable where the thing insured is rescued from a peril insured against, that would otherwise have caused a loss, if in the course of such rescue the thing is exposed to a peril not insured against, which permanently deprives the insured of its possession, in whole or in part; or where a loss is caused by efforts to rescue the thing insured from a peril insured against.

1983. Excepted perils.—Where a peril is specially excepted in a contract of insurance, a loss, which would not have occurred but for such peril, is thereby excepted, although the immediate cause of the loss was a peril which was not excepted.

1984. Negligence and fraud.—An insurer is not liable for a loss caused by the willful act of the insured; but he is not exonerated by the negligence of the insured, or of his agents or others.

ARTICLE 10.—NOTICE OF LOSS

Sec.
1991. Notice of loss.
1992. Time for giving notice of accidents, etc.
1993. Preliminary proofs.
1994. Waiver of defects in notice, etc.
1995. Waiver of delay.
1996. Certificate, when dispensed with.

1991. Notice of loss.—In case of loss upon an insurance against fire, an insurer is exonerated if notice thereof be not given to him by some person insured, or entitled to the benefit of the insurance, without unnecessary delay.

1992. Time for giving notice of accident, etc.—No conditions, stipulations, or agreements contained in any application for insurance in any casualty or accident insurance company, or contained in any policy issued by any such company, or in any way made by any such company, limiting the time within which notice of the accident or injury, or death, shall be given to such company to a period of less than twenty days after the happening of the accident, or injury, or death, shall be valid. Said notice may be given to the company insuring, at any time within twenty days after the happening of the accident, or injury, or death, and shall be valid and binding on the company; and notice deposited in the mails properly addressed within the time stated is sufficient, though it does not reach the insurer within that time.

1993. Preliminary proofs.—When preliminary proof of loss is required by a policy, the insured is not bound to give such proof as would be necessary in a court of justice; but it is sufficient for him to give the best evidence which he has in his power at the time.

1994. Waiver of defects in notice, etc.—All defects in a notice of loss, or in preliminary proof thereof, which the insured might remedy, and which the insurer omits to specify to him, without unnecessary delay, as grounds of objection, are waived.

1995. Waiver of delay.—Delay in the presentation to an insurer of notice or proof of loss is waived, if caused by any act of his, or if he omits to make objection promptly and specifically upon that ground.

1996. Certificate, when dispensed with.—If a policy requires, by way of preliminary proof of loss, the certificate or testimony of a person other than the insured, it is sufficient for the insured to use reasonable diligence to procure it, and in case of the refusal of such person to give it, then to furnish reasonable evidence to the insurer that such refusal was not induced by any just grounds of disbelief in the facts necessary to be certified.

ARTICLE 11.—DOUBLE INSURANCE

Sec.
2001. Double insurance.
2002. Contribution in case of double insurance.

2001. Double insurance.—A double insurance exists where the same person is insured by several insurers separately in respect to the same subject and interest.

2002. Contribution in case of double insurance.—In case of double fire insurance, each insurer must contribute ratably toward the loss, without regard to the dates of the several policies.

CROSS-REFERENCES

Return of premium by successive insurers, see sections 1974 and 1976 of this title.

Insurers in separate policies may be joined, see title 4, section 139.

ARTICLE 12.—REINSURANCE

Sec.
2011. Reinsurance, what.
2012. Disclosures required.
2013. Reinsurance presumed to be against liability.
2014. Original insured has no interest.

2011. Reinsurance, what.—A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance.

2012. Disclosures required.—Where an insurer obtains reinsurance, he must communicate all the representations of the original insured, and also all the knowledge and information he possesses, whether previously or subsequently acquired, which are material to the risk.

2013. Reinsurance presumed to be against liability.—A reinsurance is presumed to be a contract of indemnity against liability and not merely against damage.

2014. Original insured has no interest.—The original insured has no interest in a contract of reinsurance.

CHAPTER 57.—FIRE INSURANCE

Sec.
2021. Alteration increasing risk.
2022. Alteration not increasing risk.
2023. Acts of insured.
2024. Measure of indemnity.
2025. Value of interest in policy of insurance; how may be fixed; total or partial loss.

Cross-References

Chapter 56 of this title is also applicable to fire insurance, see section 1863 of this title.

Foreign insurance companies, see sections 221 et seq., of this title.

Injury to or destruction of insured property, see title 5, section 705.

Section 2021. Alteration increasing risk.—An alteration in the use or condition of a thing insured from that to which it is limited by the policy, made without the consent of the insurer, by means within the control of the insured, and increasing the risk, entitles an insurer to rescind a contract of fire insurance.

2022. Alteration not increasing risk.—An alteration in the use or condition of a thing insured from that to which it is limited by the policy, which does not increase the risk, does not affect a contract of fire insurance.

2023. Acts of insured.—A contract of fire insurance is not affected by any act of the insured subsequent to the execution of the policy, which does not violate its provisions, even though it increases the risk and is the cause of a loss.

2024. Measure of indemnity.—If there is no valuation in the policy, the measure of indemnity in an insurance against fire is the expense it would be to the insured at the time of the commencement of the fire to replace the thing lost or injured in the condition in which it was at the time of the injury; but the effect of a valuation in a policy of fire insurance is the same as in a policy of marine insurance.

2025. Value of interest in policy of insurance; how may be fixed; total or partial loss.—Whenever the insured desires to have a valuation named in his policy, insuring any building or structure against fire, he may require such building or structure to be examined by the insurer, and the value of the insured's interest therein shall be thereupon fixed by the parties. The cost of such examination shall be paid for by the insured. A clause shall be inserted in such policy stating substantially that the value of the insured's interest in such building or structure has been thus fixed. In the absence of any change increasing the risk without the consent of the insurer or of fraud on the part of the insured, then, in case of a total loss under such policy, the whole amount so insured upon the insured's interest in such building or structure, as stated in the policy upon which the insurers have received a premium, shall be paid, and in case of a partial loss the full amount of the partial loss shall be so paid, and in case there are two or more policies covering the insured's interest therein, each policy shall contribute pro rata to the payment of such whole or partial loss. But in no case shall the insurer be required to pay more than the amount thus stated in such policy. This section shall not prevent the parties from stipulating in such policies concerning the repairing, rebuilding, or replacing buildings or structures wholly or partially damaged or destroyed.

CHAPTER 58.—LIFE AND HEALTH INSURANCE

Sec.
2031. Insurance upon life, when payable.
2032. Insurable interest.
2033. Assignee, etc., of life policy need have no interest.
2034. Notice of transfer.
2035. Measure of indemnity.
2036. Disposition by beneficiary of interest in installment.
2037. Payment of proceeds of policy.

CROSS-REFERENCES

Chapter 56 of this title is also applicable to life insurance, see section 1863 of this title.

Foreign insurance companies, see sections 221 et seq., of this title.

Section 2031. Insurance upon life, when payable.—An insurance upon life may be made payable on the death of the person, or on his surviving a specified period, or periodically so long as he shall live, or otherwise contingently on the continuance or determination of life.

2032. Insurable interest.—Every person has an insurable interest in the life and health—

1. Of himself;
2. Of any person on whom he depends wholly or in part for education or support;
3. Of any person under a legal obligation to him for the payment of money, or respecting property or services, of which death or illness might delay or prevent the performance; and
4. Of any person upon whose life any estate or interest vested in him depends.

CROSS-REFERENCE

Insurable interest, generally, see sections 1881 et seq., of this title.

2033. Assignee, etc., of life policy need have no interest.—A policy of insurance upon life or health may pass by transfer, will, or succession to any person, whether he has an insurable interest or not, and such person may recover upon it whatever the insured might have recovered.

CROSS-REFERENCE

Compare section 1888 of this title.

2034. Notice of transfer.—Notice to an insurer of a transfer or bequest thereof is not necessary to preserve the validity of a policy of insurance upon life or health, unless thereby expressly required.

2035. Measure of indemnity.—Unless the interest of a person insured is susceptible of exact pecuniary measurement, the measure of indemnity under a policy of insurance upon life or health is the sum fixed in the policy.

2036. Disposition by beneficiary of interest in installment.—The beneficiary under a policy of life insurance, providing for the payment of the proceeds thereof in periodical installments, may be restrained from disposing of or encumbering his interest in any such installment, prior to the date when it shall become due and payable by the insurer, by a condition or stipulation in the policy.

2037. Payment of proceeds of policy.—The proceeds of every policy of insurance due on the death of insured shall by the insurer be paid either to the beneficiary designated therein, or, if no beneficiary is designated therein, to the estate of insured; or, if the policy has been assigned, to the assignee thereof; and such payment shall satisfy all obligations of the insurer with respect to said policy.

CHAPTER 59.—INDEMNITY

Sec.
2041. Indemnity, what.
2042. Indemnity for a future wrongful act void.
2043. Indemnity for a past wrongful act valid.
2044. Indemnity extends to acts of agents.
2045. Indemnity to several.
2046. Person indemnifying liable jointly or severally with person indemnified.
Sec.
2047. Rules for interpreting agreement of indemnity.
2048. Reimbursement of person indemnifying other.
2049. Bail, what.
2050. How regulated.

Section 2041. Indemnity, what.—Indemnity is a contract by which one engages to save another from a legal consequence of the conduct of one of the parties, or of some other person.

CROSS-REFERENCES

Guaranty, see sections 2061 et seq., of this title.
Suretyship, see sections 2121 et seq., of this title.

2042. Indemnity for a future wrongful act void.—An agreement to indemnify a person against an act thereafter to be done, is void, if the act be known by such person at the time of doing it to be unlawful.

2043. Indemnity for a past wrongful act valid.—An agreement to indemnify a person against an act already done, is valid, even though the act was known to be wrongful, unless it was a felony.

2044. Indemnity extends to acts of agents.—An agreement to indemnify against the acts of a certain person, applies not only to his acts and their consequences, but also to those of his agents.

2045. Indemnity to several.—An agreement to indemnify several persons applies to each, unless a contrary intention appears.

2046. Person indemnifying liable jointly or severally with person indemnified.—One who indemnifies another against an act to be done by the latter is liable jointly with the person indemnified, and separately, to every person injured by such act.

2047. Rules for interpreting agreement of indemnity.—In the interpretation of a contract of indemnity the following rules are to be applied, unless a contrary intention appears—

1. Upon an indemnity against liability, expressly, or in other equivalent terms, the person indemnified is entitled to recover upon becoming liable.
2. Upon an indemnity against claims, or demands, or damages, or costs, expressly, or in other equivalent terms, the person indemnified is not entitled to recover without payment thereof.
3. An indemnity against claims, or demands, or liability, expressly, or in other equivalent terms, embraces the costs of defense against such claims, demands, or liability incurred in good faith and in the exercise of a reasonable discretion.
4. The person indemnifying is bound, on request of the person indemnified, to defend actions or proceedings brought against the latter in respect to the matters embraced by the indemnity, but the person indemnified has the right to engage in the conduct of such defenses, if he chooses to do so.
5. If, after request, the person indemnifying neglects to defend the person indemnified, a recovery against the latter suffered by him in good faith is conclusive in his favor against the former.
6. If the person indemnifying, whether he is a principal or a surety in the agreement, has not reasonable notice of the action or proceeding against the person indemnified, or is not allowed to control its defense, judgment against the latter is only presumptive evidence against the former.
7. A stipulation that a judgment against the person indemnified shall be conclusive upon the person indemnifying, is inapplicable if he had a good defense upon the merits, which by want of ordinary care he failed to establish in the action.

2048. Reimbursement of person indemnifying other.—Where one, at the request of another, engages to answer in damages, whether liquidated or unliquidated, for any violation of duty on the part of the latter, he is entitled to be reimbursed in the same manner as a surety for whatever he may pay.

2049. Bail, what.—Upon those contracts of indemnity which are taken in legal proceedings as security for the performance of an obligation imposed or declared by the tribunals, and known as undertakings or recognizances, the sureties are called bail.

2050. How regulated.—The obligations of bail are governed by the law specially applicable thereto.

CHAPTER 60.—GUARANTY IN GENERAL

Art.	Sec.
1. Definition of guaranty	2061
2. Creation of guaranty	2071
3. Interpretation of guaranty	2081
4. Liability of guarantors	2091
5. Continuing guaranty	2101
6. Exoneration of guarantors	2111

ARTICLE 1.—DEFINITION OF GUARANTY

Section 2061. Guaranty, what.—A guaranty is a promise to answer for the debt, default, or miscarriage of another person.

CROSS-REFERENCES

Indemnity, see sections 2041 et seq., of this title.
Suretyship, see sections 2121 et seq., of this title.

ARTICLE 2. CREATION OF GUARANTY

Sec.
2071. Knowledge of principal not necessary.
2072. Necessity of a consideration.
2073. Guaranty to be in writing, etc.
2074. Engagement to answer for obligation of another, when deemed original.
2075. Acceptance of guaranty.

2071. Knowledge of principal not necessary.—A person may become guarantor even without the knowledge or consent of the principal.

2072. Necessity of a consideration.—Where a guaranty is entered into at the same time with the original obligation, or with the acceptance of the latter by the guarantee, and forms with that obligation a part of the consideration to him, no other consideration need exist. In all other cases there must be a consideration distinct from that of the original obligation.

2073. Guaranty to be in writing, etc.—Except as prescribed by the section next following, a guaranty must be in writing, and signed by the guarantor; but the writing need not express a consideration.

CROSS-REFERENCE

Guaranty to be written, see section 886 of this title.

2074. Engagement to answer for obligation of another, when deemed original.—A promise to answer for the obligation of another, in any of the following cases, is deemed an original obligation of the promisor, and need not be in writing:

1. Where the promise is made by one who has received property of another upon an undertaking to apply it pursuant to such promise, or by one who has received a discharge from an obligation in whole or in part in consideration of such promise.

2. Where the creditor parts with value, or enters into an obligation, in consideration of the obligation in respect to which the promise is made, in terms or under circumstances such as to render the party making the promise the principal debtor, and the person in whose behalf it is made, his surety.

3. Where the promise, being for an antecedent obligation of another, is made upon the consideration that the party receiving it cancels the antecedent obligation, accepting the new promise as a substitute therefor; or upon the consideration that the party receiv-

ing it releases the property of another from a levy, or his person from imprisonment under an execution on a judgment obtained upon the antecedent obligation; or upon a consideration beneficial to the promisor, whether moving from either party to the antecedent obligation or from another person.

4. Where a factor undertakes, for a commission, to sell merchandise and guarantee the sale.

5. Where the holder of an instrument for the payment of money, upon which a third person is or may become liable to him, transfers it in payment of a precedent debt of his own, or for a new consideration, and in connection with such transfer enters into a promise respecting such instrument.

CROSS-REFERENCE

Guaranty, necessity of writing, see section 886 of this title.

2075. Acceptance of guaranty.—A mere offer to guarantee is not binding until notice of its acceptance is communicated by the guarantee to the guarantor; but an absolute guaranty is binding upon the guarantor without notice of acceptance.

CROSS-REFERENCE

Absolute guaranty, see section 2091 of this title.

ARTICLE 3.—INTERPRETATION OF GUARANTY

Sec.
2081. Guaranty of incomplete contract.
2082. Guaranty that an obligation is good or collectible.
2083. Recovery upon such guaranty.
2084. Guarantor's liability upon such guaranty.

2081. Guaranty of incomplete contract.—In a guaranty of a contract, the terms of which are not then settled, it is implied that its terms shall be such as will not expose the guarantor to greater risks than he would incur under those terms which are most common in similar contracts at the place where the principal contract is to be performed.

2082. Guaranty that an obligation is good or collectible.—A guaranty to the effect that an obligation is good, or is collectible, imports that the debtor is solvent and that the demand is collectible by the usual legal proceedings, if taken with reasonable diligence.

2083. Recovery upon such guaranty.—A guaranty, such as is mentioned in the next preceding section, is not discharged by an omission to take proceedings upon the principal debt, or upon any collateral security for its payment, if no part of the debt could have been collected thereby.

2084. Guarantor's liability upon such guaranty.—In the cases mentioned in section 2082 of this title, the removal of the principal from the Canal Zone, leaving no property therein from which the obligation might be satisfied, is equivalent to the insolvency of the principal in its effect upon the rights and obligations of the guarantor.

ARTICLE 4.—LIABILITY OF GUARANTORS

Sec.
2091. Guaranty, how construed.
2092. Liability upon guaranty of payment or performance.
2093. Liability upon guaranty of conditional obligation.
2094. Obligation of guarantor cannot exceed that of the principal.
2095. Guarantor not liable on illegal contract.

2091. Guaranty, how construed.—A guaranty is to be deemed unconditional unless its terms import some condition precedent to the liability of the guarantor.

2092. Liability upon guaranty of payment or performance.—A guarantor of payment or performance is liable to the guarantee immediately upon the default of the principal, and without demand or notice.

2093. Liability upon guaranty of conditional obligation.—Where one guarantees a conditional obligation, his liability is commensurate with that of the principal, and he is not entitled to notice of the default of the principal, unless he is unable, by the exercise of reasonable diligence, to acquire information of such default, and the creditor has actual notice thereof.

2094. Obligation of guarantor cannot exceed that of the principal.—The obligation of a guarantor must be neither larger in amount nor in other respects more burdensome than that of the principal; and if in its terms it exceeds it, it is reducible in proportion to the principal obligation.

2095. Guarantor not liable on illegal contract.—A guarantor is not liable if the contract of the principal is unlawful; but he is liable notwithstanding any mere personal disability of the principal, though the disability be such as to make the contract void against the principal.

ARTICLE 5.—CONTINUING GUARANTY

Sec.
2101. Continuing guaranty, what.
2102. Revocation.

2101. Continuing guaranty, what.—A guaranty relating to a future liability of the principal, under successive transactions, which either continue his liability or from time to time renew it after it has been satisfied, is called a continuing guaranty.

2102. Revocation.—A continuing guaranty may be revoked at any time by the guarantor, in respect to future transactions, unless there is a continuing consideration as to such transactions which he does not renounce.

ARTICLE 6.—EXONERATION OF GUARANTORS

Sec.
2111. What dealings with debtor exonerate guarantor.
2112. Void promises.
2113. Rescission of alteration.
2114. Part performance.
2115. Delay of creditor does not discharge guarantor.
2116. Guarantor indemnified by the debtor, not exonerated.
2117. Discharge of principal by act of law does not discharge guarantor.

2111. What dealings with debtor exonerate guarantor.—A guarantor is exonerated, except so far as he may be indemnified by the principal, if by any act of the creditor, without the consent of the guarantor, the original obligation of the principal is altered in any respect, or the remedies or rights of the creditor against the principal, in respect thereto, in any way impaired or suspended.

CROSS-REFERENCES

Exoneration of surety, see sections 2134 and 2135 of this title.
Forbearance will not discharge, see section 2115 of this title.
Liability of guarantor, see sections 2091 et seq., of this title.
Neglect or refusal to sue after request will discharge, see section 2142 of this title.
Rights of creditor where security given, see section 2151 of this title.

2112. Void promises.—A promise by a creditor, which for any cause is void, or voidable by him at his option, does not alter the obligation or suspend or impair the remedy, within the meaning of the next preceding section.

2113. Rescission of alteration.—The rescission of an agreement altering the original obligation of a debtor, or impairing the remedy of a creditor, does not restore the liability of a guarantor who has been exonerated by such agreement.

2114. Part performance.—The acceptance, by a creditor, of anything in partial satisfaction of an obligation, reduces the obligation of a guarantor thereof, in the same measure as that of the principal, but does not otherwise affect it.

CROSS-REFERENCES

Acceptance of consideration of accord, see section 773 of this title.
Acceptance of part performance in satisfaction of obligation, see section 774 of this title.
Effect of part performance, see sections 725, 732 and 774 of this title.

2115. Delay of creditor does not discharge guarantor.—Mere delay on the part of a creditor to proceed against the principal, or to enforce any other remedy, does not exonerate a guarantor.

CROSS-REFERENCE

Notice to creditor to sue, see section 2142 of this title.

2116. Guarantor indemnified by the debtor, not exonerated.—A guarantor who has been indemnified by the principal is liable to the creditor to the extent of the indemnity, notwithstanding that the creditor, without the assent of the guarantor, may have modified the contract or released the principal.

CROSS-REFERENCE

See sections 2111 and 1265 (1) of this title.

2117. Discharge of principal by act of law does not discharge guarantor.—A guarantor is not exonerated by the discharge of his principal by operation of law, without the intervention or omission of the creditor.

CHAPTER 61.—SURETYSHIP

Art.	Sec.	Art.	Sec.
1. Who are sureties	2121	4. Rights of creditors	2151
2. Liability of sureties	2131	5. Letter of credit	2161
3. Rights of sureties	2141		

ARTICLE 1.—WHO ARE SURETIES

Sec.
2121. Surety, what.
2122. Apparent principal may show that he is surety.

Section 2121. Surety, what.—A surety is one who at the request of another, and for the purpose of securing to him a benefit, becomes responsible for the performance by the latter of some act in favor of a third person, or hypothecates property as security therefor.

CROSS-REFERENCES

Guaranty, see sections 2061 et seq., of this title.
Indemnity, see sections 2041 et seq., of this title.

2122. Apparent principal may show that he is surety.—One who appears to be a principal, whether by the terms of a written instrument or otherwise, may show that he is in fact a surety, except as against persons who have acted on the faith of his apparent character of principal.

ARTICLE 2.—LIABILITY OF SURETIES

Sec.
2131. Limit of surety's obligation.
2132. Rules of interpretation.
2133. Judgment against surety does not alter the relation.
2134. Surety exonerated by performance or offer of performance.
2135. Surety discharged by certain acts of the creditor.

2131. Limit of surety's obligation.—A surety cannot be held beyond the express terms of his contract, and if such contract prescribes a penalty for its breach, he cannot in any case be liable for more than the penalty.

CROSS-REFERENCES

Liability of guarantors, see sections 2092 and 2093 of this title.
Principal bound when surety bound, see title 4, section 1938.

2132. Rules of interpretation.—In interpreting the terms of a contract of suretyship, the same rules are to be observed as in the case of other contracts.

2133. Judgment against surety does not alter the relation.—Notwithstanding the recovery of judgment by a creditor against a surety, the latter still occupies the relation of surety.

CROSS-REFERENCE

Conclusiveness of judgments against sureties, see title 4, section 961.

2134. Surety exonerated by performance or offer of performance.—Performance of the principal obligation, or an offer of such performance, duly made as provided in this title, exonerates a surety.

CROSS-REFERENCE

Offer of performance, see sections 731 to 751 of this title.

2135. Surety discharged by certain acts of the creditor.—A surety is exonerated—

1. In like manner with a guarantor;
2. To the extent to which he is prejudiced by any act of the creditor which would naturally prove injurious to the remedies of the surety or inconsistent with his rights, or which lessens his security; or
3. To the extent to which he is prejudiced by an omission of the creditor to do anything, when required by the surety, which it is his duty to do.

Cross-References

Exoneration of guarantor, see section 2111 of this title.
Omission of creditor to proceed against principal, see section 2142 of this title.

ARTICLE 3.—RIGHTS OF SURETIES

Sec.
2141. Surety has rights of guarantor.
2142. Surety may require the creditor to proceed against the principal.
2143. Surety may compel principal to perform obligations, when due.
2144. A principal bound to reimburse his surety.

Sec.
2145. The surety acquires the right of the creditor.
2146. Surety entitled to benefit of securities held by creditor.
2147. The property of principal to be taken first.

2141. Surety has rights of guarantor.—A surety has all the rights of a guarantor, whether he become personally responsible or not.

2142. Surety may require the creditor to proceed against the principal.—A surety may require his creditor to proceed against the principal, or to pursue any other remedy in his power which the surety cannot himself pursue, and which would lighten his burden; and if in such case the creditor neglects to do so, the surety is exonerated to the extent to which he is thereby prejudiced.

Cross-Reference

Mere delay by creditor to pursue principal does not discharge surety, see sections 2115 and 2135 (1) of this title.

2143. Surety may compel principal to perform obligations, when due.—A surety may compel his principal to perform the obligation when due.

Cross-References

Substitute for equitable action, see section 2142 of this title.
Action under this section provided for, see title 4, section 956.

2144. A principal bound to reimburse his surety.—If a surety satisfies the principal obligation, or any part thereof, whether with or without legal proceedings, the principal is bound to reimburse what he has disbursed, including necessary costs and expenses; but the surety has no claim for reimbursement against other persons, though they may have been benefited by his act, except as prescribed by the section next following.

2145. The surety acquires the right of the creditor.—A surety, upon satisfying the obligation of the principal, is entitled to enforce every remedy which the creditor then has against the principal to the extent of reimbursing what he has expended, and also to require all his cosureties to contribute thereto, without regard to the order of time in which they became such.

Cross-Reference

Subrogation of surety paying, see title 4, sections 610 and 969.

2146. Surety entitled to benefit of securities held by creditor.—A surety is entitled to the benefit of every security for the performance of the principal obligation held by the creditor, or by a cosurety at the time of entering into the contract of suretyship, or acquired by him afterwards, whether the surety was aware of the security or not.

2147. The property of principal to be taken first.—Whenever property of a surety is hypothecated with property of the principal, the surety is entitled to have the property of the principal first applied to the discharge of the obligation.

ARTICLE 4.—RIGHTS OF CREDITORS

2151. Creditor entitled to benefit of securities held by surety.—A creditor is entitled to the benefit of everything which a surety has received from the debtor by way of security for the performance of the obligation, and may, upon maturity of the obligation, compel the application of such security to its satisfaction.

ARTICLE 5.—LETTER OF CREDIT

Sec.
2161. Letter of credit, what.
2162. How addressed.
2163. Liability of the writer.
2164. Letters of credit either general or special.
2165. Nature of general letter of credit.
Sec.
2166. Extent of general letter of credit.
2167. A letter of credit may be a continuing guaranty.
2168. When notice to the writer necessary.
2169. The credit given must agree with the terms of the letter.

2161. Letter of credit, what.—A letter of credit is a written instrument, addressed by one person to another, requesting the latter to give credit to the person in whose favor it is drawn.

2162. How addressed.—A letter of credit may be addressed to several persons in succession.

2163. Liability of the writer.—The writer of a letter of credit is, upon the default of the debtor, liable to those who gave credit in compliance with its terms.

Cross-Reference

When notice to the writer necessary, see section 2168 of this title.

2164. Letters of credit either general or special.—A letter of credit is either general or special. When the request for credit in a letter is addressed to specified persons by name or description, the letter is special. All other letters of credit are general.

Cross-Reference

Credit to correspond with terms of letter, see section 2169 of this title.

2165. Nature of general letter of credit.—A general letter of credit gives any person to whom it may be shown authority to comply with its request, and by his so doing it becomes, as to him, of the same effect as if addressed to him by name.

2166. Extent of general letter of credit.—Several persons may successively give credit upon a general letter.

2167. A letter of credit may be a continuing guaranty.—If the parties to a letter of credit appear, by its terms, to contemplate a course of future dealing between the parties, it is not exhausted by giving a credit, even to the amount limited by the letter, which is subsequently reduced or satisfied by payments made by the debtor, but is to be deemed a continuing guaranty.

2168. When notice to the writer necessary.—The writer of a letter of credit is liable for credit given upon it without notice to him, unless its terms express or imply the necessity of giving notice.

2169. The credit given must agree with the terms of the letter.—If a letter of credit prescribes the persons by whom, or the mode in which, the credit is to be given, or the term of credit, or limits the amount thereof, the writer is not bound except for transactions which, in these respects, conform strictly to the terms of the letter.

CHAPTER 62.—LIENS IN GENERAL

Art.	Sec.
1. Definition of liens	2171
2. Creation of liens	2181
3. Effect of liens	2191
4. Priority of liens	2201
5. Redemption from liens	2211
6. Extinction of liens	2221

ARTICLE 1.—DEFINITION OF LIENS

Sec.
2171. Lien, what.
2172. Liens, general or special.
2173. General lien, what.
2174. Special lien, what.
2175. Prior liens.
2176. Contracts subject to provisions of this chapter.

Section 2171. Lien, what.—A lien is a charge imposed in some mode other than by a transfer in trust upon specific property by which it is made security for the performance of an act.

2172. Liens, general or special.—Liens are either general or special.

2173. General lien, what.—A general lien is one which the holder thereof is entitled to enforce as a security for the performance of all the obligations, or all of a particular class of obligations, which exist in his favor against the owner of the property.

CROSS-REFERENCES

Banker, see section 2315 of this title.
Factors, lien, see section 2314 of this title.
Lien for services, see section 2311 of this title.

2174. Special lien, what.—A special lien is one which the holder thereof can enforce only as security for the performance of a particular act or obligation, and of such obligations as may be incidental thereto.

CROSS-REFERENCES

Mortgage is a special lien unless otherwise agreed, see section 2233 of this title.

Rights where prior lien discharged, see section 2175 of this title.

Special lien of officer levying attachment on execution, see section 2316 of this title.

Special lien on personalty for services, see section 2311 of this title.

Special lien of seller of personalty, see section 1033 of this title.

2175. Prior liens.—Where the holder of a special lien is compelled to satisfy a prior lien for his own protection, he may enforce payment of the amount so paid by him, as a part of the claim for which his own lien exists.

2176. Contracts subject to provisions of this chapter.—Contracts of mortgage and pledge are subject to all the provisions of this chapter.

ARTICLE 2.—CREATION OF LIENS

Sec.
2181. Lien, how created.
2182. No lien for claim not due.
Sec.
2183. Lien on future interest.
2184. Lien may be created by contract.

2181. Lien, how created.—A lien is created:
1. By contract of the parties; or
2. By operation of law.

2182. No lien for claim not due.—No lien arises by mere operation of law until the time at which the act to be secured thereby ought to be performed.

2183. Lien on future interest.—An agreement may be made to create a lien upon property not yet acquired by the party agreeing to give the lien, or not yet in existence. In such case the lien agreed for attaches from the time when the party agreeing to give it acquires an interest in the thing, to the extent of such interest.

2184. Lien may be created by contract.—A lien may be created by contract, to take immediate effect, as security for the performance of obligations not then in existence.

ARTICLE 3.—EFFECT OF LIENS

Sec.
2191. Lien, or contract for lien, transfers no title.
2192. Certain contracts void.
2193. Creation of lien does not imply personal obligation.
Sec.
2194. Extent of lien.
2195. Holder of lien not entitled to compensation.

2191. Lien, or contract for lien, transfers no title.—Notwithstanding an agreement to the contrary, a lien, or a contract for a lien, transfers no title to the property subject to the lien.

CROSS-REFERENCE

Mortgage gives no right to possession, see section 2237 of this title.

2192. Certain contracts void.—All contracts for the forfeiture of property subject to a lien, in satisfaction of the obligation secured thereby, and all contracts in restraint of the right of redemption from a lien, are void.

2193. Creation of lien does not imply personal obligation.—The creation of a lien does not of itself imply that any person is bound to perform the act for which the lien is a security.

CROSS-REFERENCE

See, also, sections 2221, 2238, and 2295 of this title.

2194. Extent of lien.—The existence of a lien upon property does not of itself entitle the person in whose favor it exists to a lien upon the same property for the performance of any other obligation than that which the lien originally secured.

2195. Holder of lien not entitled to compensation.—One who holds property by virtue of a lien thereon is not entitled to compensation from the owner thereof for any trouble or expense which he incurs respecting it, except to the same extent as a borrower, under sections 1239 and 1240 of this title.

ARTICLE 4.—PRIORITY OF LIENS

Sec.
2201. Priority of liens.
2202. Order of resort to different funds.

2201. Priority of liens.—Other things being equal, different liens upon the same property have priority according to the time of their creation, except in cases of bottomry and respondentia.

2202. Order of resort to different funds.—Where one has a lien upon several things, and other persons have subordinate liens upon, or interests in, some but not all of the same things, the person having the prior lien, if he can do so without risk of loss to himself or of injustice to other persons, must resort to the property in the following order, on the demand of any party interested:

1. To the things upon which he has an exclusive lien;
2. To the things which are subject to the fewest subordinate liens;
3. In like manner inversely to the number of subordinate liens upon the same things; and
4. When several things are within one of the foregoing classes, and subject to the same number of liens, resort must be had—
   (1) To the things which have not been transferred since the prior lien was created;
   (2) To the things which have been so transferred without a valuable consideration; and
   (3) To the things which have been so transferred for a valuable consideration in the inverse order of the transfer.

CROSS-REFERENCE

Marshaling of assets, see section 2755 of this title.

ARTICLE 5.—REDEMPTION FROM LIENS

Sec.
2211. Right to redeem; subrogation.
2212. Rights of inferior lienor.
Sec.
2213. Redemption from lien, how made.

2211. Right to redeem; subrogation.—Every person, having an interest in property subject to a lien, has the right to redeem it from the lien at any time after the claim is due and before his right of redemption is foreclosed, and, by such redemption, becomes subrogated to all the benefits of the lien, as against all owners of other interests in the property, except insofar as he was bound to make such redemption for their benefit.

CROSS-REFERENCES

Pledgor's right of redemption may be foreclosed, see section 2306 of this title.

Redemption from execution sale, see title 4, section 602.

2212. Rights of inferior lienor.—One who has a lien inferior to another, upon the same property, has a right:

1. To redeem the property in the same manner as its owner might, from the superior lien; and
2. To be subrogated to all the benefits of the superior lien, when necessary for the protection of his interests, upon satisfying the claim secured thereby.

2213. Redemption from lien, how made.—Redemption from a lien is made by performing, or offering to perform, the act for the performance of which it is a security, and paying, or offering to pay, the damages, if any, to which the holder of the lien is entitled for delay.

CROSS-REFERENCE

Offer to perform, see section 731 of this title.

ARTICLE 6.—EXTINCTION OF LIENS

Sec.
2221. Lien deemed accessory to the act whose performance it secures.
2222. Extinction by sale or conversion.
Sec.
2223. Lien extinguished by lapse of time under statute of limitations.
2224. Apportionment of lien.
2225. When restoration extinguishes lien.

2221. Lien deemed accessory to the act whose performance it secures.—A lien is to be deemed accessory to the act for the performance of which it is a security, whether any person is bound for such performance or not, and is extinguishable in like manner with any other accessory obligation.

CROSS-REFERENCE

Assignment of debt, see section 2246 of this title.

2222. Extinction by sale or conversion.—The sale of any property on which there is a lien, in satisfaction of the claim secured thereby or in case of personal property, its wrongful conversion by the person holding the lien, extinguishes the lien thereon.

CROSS-REFERENCE

Sale of property by lien holder, see section 2313 of this title.

2223. Lien extinguished by lapse of time under statute of limitations.—A lien is extinguished by the lapse of the time within which, under the provisions of Title 4, The Code of Civil Procedure, an action can be brought upon the principal obligation.

CROSS-REFERENCE

Limitation of actions, see title 4, sections 81 et seq.

2224. Apportionment of lien.—The partial performance of an act secured by a lien does not extinguish the lien upon any part of the property subject thereto, even if it is divisible.

2225. When restoration extinguishes lien.—The voluntary restoration of property to its owner by the holder of a lien thereon dependent upon possession extinguishes the lien as to such property, unless otherwise agreed by the parties, and extinguishes it, notwithstanding any such agreement, as to creditors of the owner and persons subsequently acquiring a title to the property, or a lien thereon, in good faith, and for value.

CROSS-REFERENCE

Lien dependent on possession, see section 2311 of this title.

CHAPTER 63.—MORTGAGE

Art. Sec.
1. Mortgages in general 2231
2. Mortgages of personal property 2261

ARTICLE 1.—MORTGAGES IN GENERAL

Sec.
2231. Mortgage, what.
2232. To be in writing.
2233. Lien of a mortgage, when special.
2234. Transfer, when mortgage, when pledge.
2235 Transfer made subject to defeasance may be proved.
2236. Mortgage, on what a lien.
2237. Mortgage does not entitle mortgagee to possession.
2238. Mortgage not a personal obligation.
2239. Waste.
2240. Subsequently acquired title inures to mortgagee.
2241. Power of sale.
Sec.
2242. Power of attorney to execute.
2243. Mortgage, when void as to third persons.
2244. Recording assignment of mortgage.
2245. Recording assignment of mortgage not notice to mortgagor.
2246. Mortgage passes by assignment of debt.
2247. Mortgage, how discharged.
2248. Same.
2249. Duty of mortgagee on satisfaction of mortgage.
2250. Provisions of this chapter do not affect bottomry or respondentia.

Section 2231. Mortgage, what.—Mortgage is a contract by which specific property is hypothecated for the performance of an act, without the necessity of a change of possession.

CROSS-REFERENCES

Actual transfer of possession of personalty would change it into a pledge, see section 2234 of this title.

Mortgage not a conveyance, see title 4, section 667.

2232. To be in writing.—A mortgage can be created, renewed, or extended, only by writing, subscribed by the party to be charged or by his agent thereunto authorized in writing.

2233. Lien of a mortgage, when special.—The lien of a mortgage is special, unless otherwise expressly agreed, and is independent of possession.

CROSS-REFERENCE

Special lien, definition, see section 2174 of this title.

2234. Transfer, when mortgage, when pledge.—Every transfer of an interest in property, other than in trust, made only as a security for the performance of another act, is to be deemed a mortgage, except when it is accompanied by actual change of possession, in which case it is to be deemed a pledge.

CROSS-REFERENCES

Deed absolute on its face, when a mortgage, see section 2235 of this title.
Mortgage not a conveyance, see title 4, section 667.

2235. Transfer made subject to defeasance may be proved.—The fact that a transfer was made subject to defeasance on a condition, may, for the purpose of showing such transfer to be a mortgage, be proved (except as against a subsequent purchaser or encumbrancer for value and without notice), though the fact does not appear by the terms of the instrument.

CROSS-REFERENCE

Transfer, when mortgage, when pledge, see section 2234 of this title.

2236. Mortgage, on what a lien.—A mortgage is a lien upon everything that would pass by a grant of the property.

CROSS-REFERENCES

Fixtures, generally, see section 257 of this title.
Growing crops, see section 2272 of this title.

2237. Mortgage does not entitle mortgagee to possession.—A mortgage does not entitle the mortgagee to the possession of the property, unless authorized by the express terms of the mortgage; but after the execution of the mortgage the mortgagor may agree to such change of possession without a new consideration.

CROSS-REFERENCES

Mortgagee's possession, see sections 2231 and 2233 of this title.
Foreclosure necessary to entitle mortgagee to possession, see title 4, section 667.

2238. Mortgage not a personal obligation.—A mortgage does not bind the mortgagor personally to perform the act for the performance of which it is a security, unless there is an express convenant therein to that effect.

2239. Waste.—No person whose interest is subject to the lien of a mortgage may do any act which will substantially impair the mortgagee's security.

CROSS-REFERENCE

Damages recoverable by purchaser at sale, for injuries by tenant, see title 4, section 669.

2240. Subsequently acquired title inures to mortgagee.—Title acquired by the mortgagor subsequent to the execution of the mortgage, inures to the mortgagee as security for the debt in like manner as if acquired before the execution.

2241. Power of sale.—A power of sale may be conferred by a mortgage upon the mortgagee or any other person, to be exercised after a breach of the obligation for which the mortgage is a security.

2242. Power of attorney to execute.—A power of attorney to execute a mortgage must be in writing, subscribed, acknowledged, or proved, and certified in the manner prescribed in chapter 22 of this title, and recorded in the office of the registrar of property.

CROSS-REFERENCE

Authorization, generally, see section 1626 of this title.

2243. Mortgage, when void as to third persons.—A mortgage of property is void as against creditors of the mortgagor and subsequent purchasers and encumbrancers of the property in good faith for value, unless it is acknowledged or proved and certified in the manner prescribed in chapter 22 of this title, and recorded in the office of the registrar of property of the Canal Zone.

CROSS-REFERENCE

Clerk of district court as ex-officio registrar of property, see title 4, section 967.

2244. Recording assignment of mortgage.—An assignment of a mortgage may be recorded in like manner as a mortgage, and such record operates as notice to all persons subsequently deriving title to the mortgage from the assignor.

2245. Recording assignment of mortgage not notice to mortgagor.—When the mortgage is executed as security for money due, or to become due, on a promissory note, bond, or other instrument designated in the mortgage, the record of the assignment of the mortgage is not, of itself, notice to a mortgagor, his heirs, or personal representatives, so as to invalidate any payment made by them, or either of them, to the person holding such note, bond, or other instrument.

2246. Mortgage passes by assignment of debt.—The assignment of a debt secured by mortgage carries with it the security.

2247. Mortgage, how discharged.—A recorded mortgage may be discharged by an entry in the margin of the record thereof, signed by the mortgagee, or his personal representative or assignee, acknowledging the satisfaction of the mortgage in the presence of the registrar of property, who must certify the acknowledgment in form substantially as follows: "Signed and acknowledged before me, this ——— day of ———, in the year ———. A. B., Registrar of Property."

2248. Same.—A recorded mortgage, if not discharged as provided in the next preceding section, must be discharged upon the record by the officer having custody thereof, on the presentation to him of a certificate signed by the mortgagee, his personal representatives or assigns, acknowledged or proved and certified as prescribed by chapter 22 of this title, stating that the mortgage has been paid, satisfied, or discharged.

2249. Duty of mortgagee on satisfaction of mortgage.—When any mortgage has been satisfied, the mortgagee or his assignee must immediately, on the demand of the mortgagor, execute, acknowledge, and deliver to him a certificate of the discharge thereof, so as to entitle it to be recorded, or he must enter satisfaction, or cause satisfaction of such mortgage to be entered of record; and any mortgagee, or assignee of such mortgagee, who refuses to execute, acknowledge, and deliver to the mortgagor the certificate of discharge, or to enter satisfaction, or cause satisfaction of the mortgage to be entered, as provided in this chapter, is liable to the mortgagor, or his grantee or heirs, for all damages which he or they may sustain by reason of such refusal, and shall also forfeit to him or them the sum of one hundred dollars.

2250. Provisions of this chapter do not affect bottomry or respondentia.—Contracts of bottomry or respondentia, although in the nature of mortgages, are not affected by any of the provisions of this chapter.

ARTICLE 2.—MORTGAGES OF PERSONAL PROPERTY

Sec.
2261. What personal property may be mortgaged.
2262. Mortgage of stock in trade of merchant.
2263. Form of personal mortgage.
2264. When void as to third persons.
2265. Books to be kept for personal mortgages.
2266. Removing mortgaged property from Canal Zone.
2267. How foreclosed.
Sec.
2268. Mortgaged property may be levied upon.
2269. Attachment and executions on mortgaged personal property.
2270. Application of proceeds of sale.
2271. Certain sections not applicable to mortgage of certain ships.
2272. Continuance of lien of mortgage on crops.
2273. Validity of certain mortgages.

2261. What personal property may be mortgaged.—Mortgages may be made upon all growing crops, including fruit, and upon any and all kinds of personal property, except articles of wearing apparel and personal adornment.

CROSS-REFERENCE

As to the validity of mortgages on excepted property, see section 2273 of this title.

2262. Mortgage of stock in trade of merchant.—Where a mortgage is made upon the stock in trade of a merchant, it shall be deemed, in the absence of a contrary intention, to cover goods subsequently acquired; and purchasers from the mortgagor in good faith and in the usual course of business shall not be liable to the mortgagee.

2263. Form of personal mortgage.—A mortgage of personal property may be made in substantially the following form:

This mortgage, made the —— day of ——, in the year ——, by A B, of ——, by occupation a ——, mortgagor, to C D, of ——, by occupation a ——, mortgagee, witnesseth:

That the mortgagor mortgages to the mortgagee (here describe the property), as security for the payment to him of —— dollars, on (or before) the —— day of ——, in the year ——, with interest thereon (or, as security for the payment of a note or obligation, describing it, and so forth) A B.

2264. When void as to third persons.—A mortgage of personal property is void as against creditors of the mortgagor and subsequent purchasers and encumbrancers of the property in good faith and for value, unless:

1. It is accompanied by the affidavit of all the parties thereto that it is made in good faith and without any design to hinder, delay, or defraud creditors;
2. It is acknowledged or proved and certified in the manner prescribed in chapter 22 of this title, and recorded in the office of the registrar of property of the Canal Zone.

2265. Books to be kept for personal mortgages.—Mortgages of personal property must be recorded in books kept for personal mortgages exclusively.

CROSS-REFERENCE

Manner of acknowledging, proving, certifying, and recording, see section 2264 of this title.

2266. Removing mortgaged property from Canal Zone.—No mortgagor shall remove or permit the removal of mortgaged property from the Canal Zone without the written consent of the mortgagee.

2267. How foreclosed.—A mortgagee of personal property, when the debt to secure which the mortgage was executed becomes due, may foreclose the mortgagor's right of redemption by a sale of the property, made in the manner and upon the notice prescribed by chapter 64 of this title on " pledge ", or by proceedings under Title 4, The Code of Civil Procedure.

CROSS-REFERENCES

Actual notice required, see section 2297 of this title.
Sale of pledge, see sections 2295 et seq., of this title.
Foreclosure, see title 4, sections 641 to 644.

2268. Mortgaged property may be levied upon.—Personal property mortgaged may be taken under attachment or execution issued at the suit of a creditor of the mortgagor.

2269. Attachment and executions on mortgaged personal property.—Before the property is so taken the officer must pay or tender to the mortgagee the amount of the mortgage debt and interest or must deposit the amount thereof with the registrar of property, payable to the order of the mortgagee: *Provided*, *however*, That when an attachment or execution creditor presents to the officer a verified statement that the mortgage is void or invalid for reasons therein specified and delivers to the officer a good and sufficient indemnity bond in double the amount of the mortgage debt or double the value of the mortgaged property, as the officer may determine and require, the officer shall take the property, and, in the case of an execution, sell it in the manner provided by law.

The bond shall be made to both the officer and the mortgagee and shall indemnify them and each of them for the taking of the property against loss, liability, damages, costs, and counsel fees.

CROSS-REFERENCE

Measure of special owner's damage for conversion, see section 2664 of this title.

2270. Application of proceeds of sale.—When the property is taken after payment or tender of deposit as provided for in section 2269 of this title, and is sold under process the officer must apply the proceeds of the sale as follows:

1. To the repayment of the sum paid to the mortgagee, with interest from the date of such payment; and

2. The balance, if any, in like manner as the proceeds of sales under execution are applied in other cases.

When the property is taken after presentation to the officer of the verified statement and bond mentioned in the proviso in section 2269 and is sold under process the officer must apply the proceeds of the sale as follows:

1. To the satisfaction of the amount specified in the process including interest and costs; and

2. The balance, if any, in like manner as the proceeds of sales under execution are applied in other cases.

2271. Certain sections not applicable to mortgage of certain ships.—Sections 2264 to 2266 of this title do not apply to any mortgage of a ship or part of a ship under the flag of the United States.

2272. Continuance of lien of mortgage on crops.—The lien of a mortgage on a growing crop continues on the crop after severance, whether remaining in its original state or converted into another product, so long as the same remains on the land of mortgagor.

2273. Validity of certain mortgages.—Mortgages of personal property, other than that mentioned in section 2261 of this title, and mortgages not made in conformity with the provisions of this article, are nevertheless valid between the parties, their heirs, legatees, and personal representatives, and persons who, before parting with value, have actual notice thereof.

CHAPTER 64.—PLEDGE

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2282. When contract is to be deemed a pledge.
2283. Delivery essential to validity of pledge.
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2293. Gratuitous pledge holder.
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2295. When pledgee may sell.
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2298. Waiver of notice of sale.
2299. Waiver of demand.
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2301. Pledgee's sale of securities.
2302. Sale on the demand of the pledgor.
2303. Surplus to be paid to pledgor.
2304. Pledgee may retain all that can become due.
2305. Pledgee or pledge holder may purchase.
2306. Pledgee may foreclose right of redemption.

Section 2281. Pledge, what.—Pledge is a deposit of personal property by way of security for the performance of another act.

Cross-Reference

Increase of property pledged, see section 2284 of this title

2282. **When contract is to be deemed a pledge.**—Every contract by which the possession of personal property is transferred, as security only, is to be deemed a pledge.

2283. **Delivery essential to validity of pledge.**—The lien of a pledge is dependent on possession, and no pledge is valid until the property pledged is delivered to the pledgee, or to a pledge holder, as hereinafter prescribed.

2284. **Increase of things.**—The increase of property pledged is pledged with the property.

2285. **Lienor may pledge property to extent of his lien.**—One who has a lien upon property may pledge it to the extent of his lien.

CROSS-REFERENCES

Compare section 2286 of this title.
Lienor's action for damages, see section 2664 of this title.

2286. **Real owner cannot defeat pledge of property transferred to apparent owner for the purpose of pledge.**—One who has allowed another to assume the apparent ownership of property for the purpose of making any transfer of it, cannot set up his own title, to defeat a pledge of the property, made by the other, to a pledgee who received the property in good faith, in the ordinary course of business, and for value.

2287. **Pledge lender, what.**—Property may be pledged as security for the obligation of another person than the owner, and in so doing the owner has all the rights of a pledgor for himself, except as hereinafter stated.

2288. **Pledge holder, what.**—A pledgor and pledgee may agree upon a third person with whom to deposit the property pledged, who, if he accepts the deposit, is called a pledge holder.

2289. **When pledge lender may withdraw property pledged.**—One who pledges property as security for the obligation of another cannot withdraw the property pledged otherwise than as a pledgor for himself might, and if he receives from the debtor a consideration for the pledge he cannot withdraw it without his consent.

2290. **Obligations of pledge holder.**—A pledge holder for reward cannot exonerate himself from his undertaking; and a gratuitous pledge holder can do so only by giving reasonable notice to the pledgor and pledgee to appoint a new pledge holder, and in case of their failure to agree, by depositing the property pledged with some impartial person, who will then be entitled to a reasonable compensation for his care of the same.

2291. **Pledge holder must enforce rights of pledgee.**—A pledge holder must enforce all the rights of the pledgee, unless authorized by him to waive them.

2292. **Obligation of pledgee and pledge holder, for reward.**—A pledgee, or a pledge holder for reward, assumes the duties and liabilities of a depositary for reward.

CROSS-REFERENCE

Depositary for reward, see section 1132 of this title.

2293. Gratuitous pledge holder.—A gratuitous pledge holder assumes the duties and liabilities of a gratuitous depositary.

CROSS-REFERENCE

Gratuitous pledge holder, see sections 1123 and 1124 of this title.

2294. Debtor's misrepresentation of value of pledge.—Where a debtor has obtained credit, or an extension of time, by a fraudulent misrepresentation of the value of property pledged by or for him, the creditor may demand a further pledge to correspond with the value represented; and in default thereof may recover his debt immediately, though it be not actually due.

2295. When pledgee may sell.—When performance of the act for which a pledge is given is due, in whole or in part, the pledgee may collect what is due to him by a sale of property pledged, subject to the rules and exceptions hereinafter prescribed.

CROSS-REFERENCE

Foreclosure of right of redemption, see section 2306 of this title.

2296. Sale of pledged property.—Before property pledged can be sold, and after performance of the act for which it is security is due, the pledgee must demand performance thereof from the debtor, if the debtor can be found.

CROSS-REFERENCE

Waiver of demand of performance before sale, see section 2299 of this title.

2297. Notice of sale to pledgor.—A pledgee must give actual notice to the pledgor of the time and place at which the property pledged will be sold, at such a reasonable time before the sale as will enable the pledgor to attend.

2298. Waiver of notice of sale.—Notice of sale may be waived by a pledgor at any time; but is not waived by a mere waiver of demand of performance.

2299. Waiver of demand.—A debtor or pledgor waives a demand of performance as a condition precedent to a sale of the property pledged, by a positive refusal to perform, after performance is due; but cannot waive it in any other manner except by contract.

2300. Sale of pledged property, manner of.—The sale by pledgee, of property pledged, must be made by public auction, in the manner and upon the notice of sale of personal property under execution.

2301. Pledgee's sale of securities.—A pledgee cannot sell any evidence of debt pledged to him, except the obligations of governments, States, or corporations; but he may collect the same when due.

CROSS-REFERENCE

Right of redemption, see section 2211 of this title.

2302. Sale on the demand of the pledgor.—Whenever property pledged can be sold for a price sufficient to satisfy the claim of the pledgee, the pledgor may require it to be sold, and its proceeds to be applied to such satisfaction, when due.

CROSS-REFERENCE

Retaining proceeds, see section 2304 of this title.

2303. Surplus to be paid to pledgor.—After a pledgee has lawfully sold property pledged, or otherwise collected its proceeds, he may deduct therefrom the amount due under the principal obligation, and the necessary expenses of sale and collection, and must pay the surplus to the pledgor, on demand.

2304. Pledgee may retain all that can become due.—When property pledged is sold by order of the pledgor before the claim of the pledgee is due, the latter may retain out of the proceeds all that can possibly become due under his claim until it becomes due.

2305. Pledgee or pledge holder may purchase.—Whenever property pledged is sold at public auction, in the manner provided by section 2300 of this title, the pledgee or pledge holder may purchase said property at such sale.

2306. Pledgee may foreclose right of redemption.—Instead of selling property pledged, as hereinbefore provided, a pledgee may foreclose the right of redemption by a judicial sale, under the direction of a competent court; and in that case may be authorized by the court to purchase at the sale.

CHAPTER 65.—OTHER LIENS

Sec.
2311. Lien on personal property for services thereon.
2312. Limitation on amount recoverable where written notice not given.
2313. Lien holder may sell property; notice of sale; proceeds.
2314. Lien of factor.
2315. Banker's lien.
2316. Officer's lien.

CROSS-REFERENCE

Lien of seller of goods, see sections 1033 et seq., of this title.

Section 2311. Lien on personal property for services thereon.—Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor or skill, employed for the protection, improvement, safekeeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service; a person who makes, alters, or repairs any article of personal property, at the request of the owner, or legal possessor of the property, has a lien on the same for his reasonable charges for the balance due for such work done and materials furnished, and may retain possession of the same until the charges are paid; and livery or boarding or feed-stable proprietors, and persons pasturing horses or stock, have a lien, dependent on possession, for their compensation in caring for, boarding, feeding, or pasturing such horses or stock; and laundry proprietors and persons conducting a laundry business, have a general lien, dependent on possession, upon all personal property in their hands belonging to a customer, for the balance due them from such customer for laundry work; and veterinary proprietors and veterinary surgeons shall have a lien, dependent on possession, for their compensation in caring for, boarding, feeding, and medical treatment of animals; and keepers of garages for automobiles shall have a lien, dependent on possession, for their compensation in caring for and safe-keeping such automobiles.

Cross-References

Carrier's lien, see section 1459 of this title.
Restoration of property extinguishes lien, see section 2225 of this title.

2312. Limitation on amount recoverable where written notice not given.—That portion of any lien, as provided for in the next preceding section, in excess of $100, for any work, services, care, or safe-keeping rendered or performed at the request of any person other than the holder of the legal title, shall be invalid, unless prior to commencing any such work, service, care, or safe-keeping, the person claiming such lien shall give actual notice in writing either by personal service or by registered letter addressed to the holder of the legal title to such property, if known. In the case of automobiles, the person named as legal owner in the registration certificate, shall be deemed for the purpose of this section, as the holder of the legal title.

2313. Lien holder may sell property; notice of sale; proceeds.—If the person entitled to the lien provided for in section 2311 of this title be not paid the amount due and for which said lien is given, within twenty days after the same shall have become due, then such lien holder may proceed to sell said property, or so much thereof as may be necessary to satisfy said lien and costs of sale, at public auction, and by giving at least ten days' previous notice of such sale by advertising in some newspaper of general circulation in the Canal Zone. The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping and selling the property; the remainder, if any, must be paid over to the owner thereof.

Cross-Reference

Extinguishment of lien by sale or conversion, see section 2222 of this title.

2314. Lien of factor.—A factor has a general lien, dependent on possession, for all that is due to him as such, upon all articles of commercial value that are intrusted to him by the same principal.

Cross-References

Factor's enforcement of lien, see section 1372 of this title.
Power of pledging, see section 2286 of this title.

2315. Banker's lien.—A banker has a general lien, dependent on possession, upon all property in his hands belonging to a customer, for the balance due to him from such customer in the course of the business.

2316. Officers' lien.—An officer who levies an attachment or execution upon personal property acquires a special lien, dependent on possession, upon such property, which authorizes him to hold it until the process is discharged or satisfied, or a judicial sale of the property is had.

CROSS-REFERENCE

Attachment and execution, see title 4, sections 356, 583, 588, and 590.

CHAPTER 66.—NEGOTIABLE INSTRUMENTS IN GENERAL

Art. Sec.
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2. Consideration 2351
3. Negotiation 2361
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NOTE.—This chapter and chapters 67 to 69 of this title comprise the Uniform Negotiable Instruments Act.

ARTICLE 1.—FORM AND INTERPRETATION

Sec.
2321. Requirements for negotiable instrument.
2322. Sum payable certain.
2323. Unqualified promise unconditional.
2324. Time for payment.
2325. Nonnegotiable instrument.
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2327. Payable on demand.
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2330. Language of instrument.
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2339. Signature by agent.
2340. Liability of agent.
2341. Signature by "Procuration."
2342. Endorsement by corporation or infant.
2343. Forged signature.

Section 2321. Requirements for negotiable instrument.—An instrument to be negotiable must conform to the following requirements:

(1) It must be in writing and signed by the maker or drawer;

(2) Must contain an unconditional promise or order to pay a sum certain in money;

(3) Must be payable on demand, or at a fixed or determinable future time;

(4) Must be payable to order or to bearer; and

(5) Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

2322. Sum payable certain.—The sum payable is a sum certain within the meaning of chapters 66 to 69 of this title, although it is to be paid—

(1) With interest; or

(2) By stated installments; or

(3) By stated installments, with a provision that upon default in payment of any installment or of interest, the whole shall become due; or

(4) With exchange, whether at a fixed rate or at the current rate; or

(5) With costs of collection or an attorney's fee, in case payment shall not be made at maturity.

2323. Unqualified promise unconditional.—An unqualified order or promise to pay is unconditional within the meaning of chapters 66 to 69 of this title, though coupled with—

(1) An indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or

(2) A statement of the transaction which gives rise to the instrument.

But an order or promise to pay out of a particular fund is not unconditional.

2324. **Time for payment.**—An instrument is payable at a determinable, future time, within the meaning of chapters 66 to 69 of this title, which is expressed to be payable—

(1) At a fixed period after date or sight; or

(2) On or before a fixed or determinable future time specified therein; or

(3) On or at a fixed period after the occurrence of a specified event, which is certain to happen, though the time of happening be uncertain.

An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect.

2325. **Nonnegotiable instrument.**—An instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable. But the negotiable character of an instrument otherwise negotiable is not affected by a provision which—

(1) Authorizes the sale of collateral securities in case the instrument be not paid at maturity; or

(2) Authorizes a confession of judgment, if the instrument be not paid at maturity; or

(3) Waives the benefit of any law intended for the advantage or protection of the obligor; or

(4) Gives the holder an election to require something to be done in lieu of payment of money.

But nothing in this section shall validate any provision or stipulation otherwise illegal.

2326. **Negotiability not affected.**—The validity and negotiable character of an instrument are not affected by the fact that—

(1) It is not dated; or

(2) Does not specify the value given, or that any value has been given therefor; or

(3) Does not specify the place where it is drawn or the place where it is payable; or

(4) Bears a seal; or

(5) Designates a particular kind of current money in which payment is to be made.

But nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument.

2327. **Payable on demand.**—An instrument is payable on demand—

(1) Where it is expressed to be payable on demand, or at sight, or on presentation; or

(2) In which no time for payment is expressed.

Where an instrument is issued, accepted, or indorsed when overdue, it is, as regards the person so issuing, accepting, or indorsing it, payable on demand.

2328. Payable to order.—The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of—

(1) A payee who is not maker, drawer, or drawee; or
(2) The drawer or maker; or
(3) The drawee; or
(4) Two or more payees jointly; or
(5) One or some of several payees; or
(6) The holder of an office for the time being.

Where the instrument is payable to order the payee must be named or otherwise indicated therein with reasonable certainty.

2329. Payable to bearer.—The instrument is payable to bearer—

(1) When it is expressed to be so payable; or
(2) When it is payable to a person named therein or bearer; or
(3) When it is payable to the order of a fictitious or nonexisting person, and such fact was known to the person making it so payable; or
(4) When the name of the payee does not purport to be the name of any person; or
(5) When the only or last indorsement is an indorsement in blank.

2330. Language of instrument.—The instrument need not follow the language of chapters 66 to 69 of this title, but any terms are sufficient which clearly indicate an intention to conform to the requirements thereof.

2331. True date.—Where the instrument or an acceptance or any indorsement thereon is dated, such date is deemed prima facie to be the true date of the making, drawing, acceptance, or indorsement as the case may be.

2332. Ante or post dating.—The instrument is not invalid for the reason only that it is antedated or postdated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery.

2333. Insertion of date.—Where an instrument expressed to be payable at a fixed period after date is issued undated, or where the aceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course; but as to him, the date so inserted is to be regarded as the true date.

2334. Filling up blanks.—Where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as a prima facie authority to fill it up as such for any amount. In order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given and within a reasonable time. But if any such instrument, after completion, is negotiated to a holder in due course, it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time.

2335. **Incomplete instrument not delivered.**—Where an incomplete instrument has not been delivered it will not, if completed and negotiated, without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery.

2336. **Delivery necessary.**—Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose of giving effect thereto. As between immediate parties, and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting, or indorsing, as the case may be; and in such case the delivery may be shown to have been conditional, or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him so as to make them liable to him is conclusively presumed. And where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved.

2337. **Rules of construction.**—Where the language of the instrument is ambiguous or there are omissions therein, the following rules of construction apply:

(1) Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two, the sum denoted by the words is the sum payable; but if the words are ambiguous or uncertain, reference may be had to the figures to fix the amount;

(2) Where the instrument provides for the payment of interest, without specifying the date from which interest is to run, the interest runs from the date of the instrument, and if the instrument is undated, from the issue thereof;

(3) Where the instrument is not dated, it will be considered to be dated as of the time it was issued;

(4) Where there is a conflict between the written and printed provisions of the instrument, the written provisions prevail;

(5) Where the instrument is so ambiguous that there is doubt whether it is a bill or note, the holder may treat it as either at his election;

(6) Where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign, he is to be deemed an indorser;

(7) Where an instrument containing the words "I promise to pay" is signed by two or more persons, they are deemed to be jointly and severally liable thereon.

2338. **Liability on instrument.**—No person is liable on the instrument whose signature does not appear thereon, except as herein otherwise expressly provided. But one who signs in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

2339. **Signature by agent.**—The signature of any party may be made by a duly authorized agent. No particular form of appointment is necessary for this purpose; and the authority of the agent may be established as in other cases of agency.

2340. **Liability of agent.**—Where the instrument contains or a person adds to his signature words indicating that he signs for or on behalf of a principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character, without disclosing his principal, does not exempt him from personal liability.

2341. **Signature by "procuration."**—A signature by "procuration" operates as notice that the agent has but a limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority.

2342. **Indorsement by corporation or infant.**—The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

2343. **Forged signature.**—When a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party, against whom it is sought to enforce such right, is precluded from setting up the forgery or want of authority.

ARTICLE 2.—CONSIDERATION

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2351. Presumption of consideration.
2352. Consideration, what constitutes.
2353. Holder for value.
Sec.
2354. Lien on an instrument.
2355. Effect of want of consideration.
2356. Liability of accommodation party.

2351. **Presumption of consideration.**—Every negotiable instrument is deemed prima facie to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value.

2352. **Consideration, what constitutes.**—Value is any consideration sufficient to support a simple contract. An antecedent or pre-existing debt constitutes value, and is deemed such whether the instrument is payable on demand or at a future time.

2353. **Holder for value.**—Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who become such prior to that time.

2354. Lien on an instrument.—Where the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien.

2355. Effect of want of consideration.—Absence or failure of consideration is matter of defense as against any person not a holder in due course; and partial failure of consideration is a defense pro tanto, whether the failure is an ascertained and liquidated amount or otherwise.

2356. Liability of accommodation party.—An accommodation party is one who has signed the instrument as maker, drawer, acceptor, or indorser, without receiving value therefor, and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder for value, notwithstanding such holder at the time of taking the instrument knew him to be only an accommodation party.

ARTICLE 3.—NEGOTIATION

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2371. Payable to bearer.
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2376. Time of indorsement.
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2378. Continuation.
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2380. Transfer without indorsement.
2381. Prior party may negotiate.

2361. Negotiation.—An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer it is negotiated by delivery; if payable to order it is negotiated by the indorsement of the holder completed by delivery.

2362. Indorsement.—The indorsement must be written on the instrument itself or upon a paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement.

2363. Indorsement of entire instrument.—The indorsement must be an indorsement of the entire instrument. An indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, does not operate as a negotiation of the instrument. But where the instrument has been paid in part, it may be indorsed as to the residue.

2364. Kinds of indorsement.—An indorsement may be either special or in blank; and it may also be either restrictive or qualified, or conditional.

2365. Special indorsement.—A special indorsement specifies the person to whom, or to whose order, the instrument is to be payable; and the indorsement of such indorsee is necessary to the further negotiation of the instrument. An indorsement in blank specifies no indorsee, and an instrument so indorsed is payable to bearer and may be negotiated by delivery.

2366. Blank indorsement, how changed to special indorsement.—The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement.

2367. Indorsement restrictive.—An indorsement is restrictive, which either—

(1) Prohibits the further negotiation of the instrument; or

(2) Constitutes the indorsee the agent of the indorser; or

(3) Vests the title in the indorsee in trust for or to the use of some other person.

But the mere absence of words implying power to negotiate does not make an indorsement restrictive.

2368. Rights conferred.—A restrictive indorsement confers upon the indorsee the right—

(1) To receive payment of the instrument;

(2) To bring any action thereon that the indorser could bring;

(3) To transfer his rights as such indorsee, where the form of the indorsement authorizes him to do so.

But all subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement.

2369. Qualified indorsement.—A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "without recourse" or any words of similar import. Such an indorsement does not impair the negotiable character of the instrument.

2370. Conditional indorsement.—Where an indorsement is conditional, a party required to pay the instrument may disregard the condition, and make payment to the indorsee or his transferee, whether the condition has been fulfilled or not. But any person to whom an instrument so indorsed is negotiated will hold the same, or the proceeds thereof, subject to the rights of the person indorsing conditionally.

2371. Payable to bearer.—Where an instrument, payable to bearer, is indorsed specially it may nevertheless be further negotiated by delivery; but the person indorsing specially is liable as indorser to only such holders as make title through his indorsement.

2372. Payable to two or more persons.—Where an instrument is payable to the order of two or more payees or indorsees who are not partners, all must indorse, unless the one indorsing has authority to indorse for the others.

2373. Indorsed to person as "cashier."—Where an instrument is drawn or indorsed to a person as "cashier" or other fiscal officer of a bank or corporation, it is deemed prima facie to be payable to the bank or corporation of which he is such officer, and may be negotiated by either the indorsement of the bank or corporation or the indorsement of the officer.

2374. Name misspelled.—Where the name of a payee or indorsee is wrongly designated or misspelled, he may indorse the instrument as therein described, adding, if he thinks fit, his proper signature.

2375. In representative capacity.—Where any person is under obligation to indorse in a representative capacity, he may indorse in such terms as to negative personal liability.

2376. Time of indorsement.—Except where an indorsement bears date after the maturity of the instrument, every negotiation is deemed prima facie to have been effected before the instrument was overdue.

2377. Place of indorsement.—Except where the contrary appears, every indorsement is presumed prima facie to have been made at the place where the instrument is dated.

2378. Continuation.—An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise.

2379. Striking out indorsement.—The holder may at any time strike out any indorsement which is not necessary to his title. The indorser whose indorsement is struck out, and all indorsers subsequent to him, are thereby relieved from liability on the instrument.

2380. Transfer without indorsement.—Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferrer had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferrer. But for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as of the time when the indorsement is actually made.

2381. Prior party may negotiate.—Where an instrument is negotiated back to a prior party such party may, subject to the provisions of chapters 66 to 69 of this title, reissue and further negotiate the same. But he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

ARTICLE 4.—RIGHTS OF THE HOLDER

Sec.
2391. Right to sue.
2392. Holder in due course.
2393. Not holder in due course.
2394. Notice before full amount paid.
2395. When title defective.
2396. Notice of defect.
2397. Rights of holder in due course.
2398. When subject to original defenses.
2399. Who deemed holder in due course.

2391. Right to sue.—The holder of a negotiable instrument may sue thereon in his own name and payment to him in due course discharges the instrument.

2392. Holder in due course.—A holder in due course is a holder who has taken the instrument under the following conditions:

(1) That it is complete and regular upon its face;

(2) That he became the holder of it before it was overdue, and without notice that it had been previously dishonored, if such was the fact;

(3) That he took it in good faith and for value;

(4) That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

CROSS-REFERENCES

Notice before full amount paid, see section 2394 of this title.
When person not deemed a holder in due course, see section 2393 of this title.
Who deemed a holder in due course, see section 2399 of this title.

2393. Not holder in due course.—Where an instrument payable on demand is negotiated an unreasonable length of time after its issue, the holder is not deemed a holder in due course.

CROSS-REFERENCES

Notice before full amount paid, see section 2394 of this title.
Who deemed a holder in due course, see sections 2392 and 2399 of this title.

2394. Notice before full amount paid.—Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agreed to be paid therefor, he will be deemed a holder in due course only to the extent of the amount theretofore paid by him.

CROSS-REFERENCES

Rights of holder in due course, see section 2397 of this title.
Who deemed a holder in due course, see sections 2392 and 2399 of this title.
Who not deemed a holder in due course, see section 2393 of this title.

2395. When title defective.—The title of a person who negotiates an instrument is defective within the meaning of chapters 66 to 69 of this title, when he obtained the instrument, or any signature thereto, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

2396. Notice of defect.—To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect, or knowledge of such facts that his action in taking the instrument amounted to bad faith.

2397. Rights of holder in due course.—A holder in due course holds the instrument free from any defect of title of prior parties, and free from defenses available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

CROSS-REFERENCES

Notice before full amount paid, see section 2394 of this title.
Who deemed holder in due course, see sections 2392 and 2399 of this title.
Who not deemed a holder in due course, see section 2393 of this title.

2398. When subject to original defenses.—In the hands of any holder other than a holder in due course, a negotiable instrument is subject to the same defenses as if it were nonnegotiable. But a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all parties prior to the latter.

2399. Who deemed holder in due course.—Every holder is deemed prima facie to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as holder in due course. But the last-mentioned rule does not apply in favor of a party who became bound on the instrument prior to the acquisition of such defective title.

CROSS-REFERENCES

Notice before full amount paid, see section 2394 of this title.
Rights of holder in due course, see section 2397 of this title.
What constitutes a holder in due course, see section 2392 of this title.
When person not deemed a holder in due course, see section 2393 of this title.

ARTICLE 5.—LIABILITIES OF PARTIES

Sec.

2401. Liability of maker.
2402. Liability of drawer.
2403. Liability of acceptor.
2404. Person deemed indorser.
2405. Liability of irregular indorser.
2406. Warranty when negotiation by delivery, etc.
2407. Liability of general indorser.
2408. When negotiable by delivery.
2409. Liability of indorsers.
2410. Liability of broker or agent.

2401. Liability of maker.—The maker of a negotiable instrument by making it engages that he will pay it according to its tenor, and admits the existence of the payee and his then capacity to indorse.

2402. Liability of drawer.—The drawer by drawing the instrument admits the existence of the payee and his then capacity to indorse; and engages that on due presentment the instrument will be accepted or paid, or both, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it. But the drawer may insert in the instrument an express stipulation negativing or limiting his own liability to the holder.

2403. Liability of acceptor.—The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance; and admits—

(1) The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and

(2) The existence of the payee and his then capacity to indorse.

2404. Person deemed indorser.—A person placing his signature upon an instrument otherwise than as maker, drawer, or acceptor, is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity.

2405. Liability of irregular indorser.—Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery, he is liable as indorser, in accordance with the following rules:

(1) If the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties.

(2) If the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer.

(3) If he signs for the accommodation of the payee, he is liable to all parties subsequent to the payee.

2406. Warranty when negotiation by delivery, etc.—Every person negotiating an instrument by delivery or by a qualified indorsement, warrants—

(1) That the instrument is genuine and in all respects what it purports to be;

(2) That he has a good title to it;

(3) That all prior parties had capacity to contract;

(4) That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless.

But when the negotiation is by delivery only, the warranty extends in favor of no holder other than the immediate transferee.

The provisions of subdivision three of this section do not apply to persons negotiating public or corporation securities, other than bills and notes.

2407. Liability of general indorser.—Every indorser who indorses without qualification, warrants to all subsequent holders in due course—

(1) The matters and things mentioned in subdivisions 1, 2, and 3 of the next preceding section; and

(2) That the instrument is at the time of his indorsement valid and subsisting.

And, in addition, he engages that on due presentment it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it.

2408. When negotiable by delivery.—Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liabilities of an indorser.

2409. Liability of indorsers.—As respects one another indorsers are liable prima facie in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsees who indorse are deemed to indorse jointly and severally.

2410. Liability of broker or agent.—Where a broker or other agent negotiates an instrument without indorsement he incurs all the liabilities prescribed by section 2406 of this title, unless he discloses the name of his principal and the fact that he is acting only as agent.

ARTICLE 6.—PRESENTMENT FOR PAYMENT

Sec.
2421. Presentment for payment.
2422. Presentment for payment.
2423. What constitutes sufficient presentment.
2424. Place of presentment.
2425. Must be exhibited.
2426. Where payable at bank.
2427. When person liable is dead.
2428. Persons liable as partners.
2429. Joint debts.
2430. Presentment for payment not required when.

Sec.
2431. Presentment for payment not required when.
2432. Delay excused.
2433. When dispensed with.
2434. When dishonored by nonpayment
2435. Liability of person secondarily liable.
2436. Time of payment.
2437. Determination of time.
2438. Where payable at bank.
2439. Payment in due course.

2421. Presentment for payment.—Presentment for payment is not necessary in order to charge the person primarily liable on the instrument; but if the instrument is, by its terms, payable at a special place, and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part. But except as herein otherwise provided, presentment for payment is necessary in order to charge the drawer and indorsers.

2422. Presentment for payment.—Where the instrument is not payable on demand, presentment must be made on the day it falls due. Where it is payable on demand, presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange, presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

2423. What constitutes sufficient presentment.—Presentment for payment, to be sufficient, must be made—

(1) By the holder, or by some person authorized to receive payment, on his behalf;

(2) At a reasonable hour on a business day;

(3) At a proper place as herein defined;

(4) To the person primarily liable on the instrument, or if he is absent or inaccessible, to any person found at the place where the presentment is made.

2424. Place of presentment.—Presentment for payment is made at the proper place—

(1) Where a place of payment is specified in the instrument and it is there presented;

(2) Where no place of payment is specified, but the address of the person to make payment is given in the instrument and it is there presented;

(3) Where no place of payment is specified and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment;

(4) In any other case if presented to the person to make payment wherever he can be found, or if presented at his last known place of business or residence.

2425. Must be exhibited.—The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it.

2426. Where payable at bank.—Where the instrument is payable at a bank, presentment for payment must be made during banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient.

2427. **When person liable is dead.**—Where the person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative, if such there be, and if, with the exercise of reasonable diligence, he can be found.

2428. **Persons liable as partners.**—Where the persons primarily liable on the instrument are liable as partners, and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm.

2429. **Joint debts.**—Where there are several persons, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all.

2430. **Presentment for payment not required when.**—Presentment for payment is not required in order to charge the drawer where he has no right to expect or require that the drawee or acceptor will pay the instrument.

2431. **Presentment for payment not required when.**—Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation and he has no reason to expect that the instrument will be paid if presented.

2432. **Delay excused.**—Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence.

2433. **When dispensed with.**—Presentment for payment is dispensed with—

(1) Where after the exercise of reasonable diligence presentment as required by chapters 66 to 69 of this title cannot be made;
(2) Where the drawee is a fictitious person;
(3) By waiver of presentment, express or implied.

2434. **When dishonored by nonpayment.**—The instrument is dishonored by nonpayment when—

(1) It is duly presented for payment and payment is refused or cannot be obtained; or

(2) Presentment is excused and the instrument is overdue and unpaid.

2435. **Liability of person secondarily liable.**—Subject to the provisions of chapters 66 to 69 of this title, when the instrument is dishonored by nonpayment, an immediate right of recourse to all parties secondarily liable thereon accrues to the holder.

2436. **Time of payment.**—Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday when that entire day is not a holiday.

2437. Determination of time.—Where the instrument is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the date of payment.

CROSS-REFERENCE

Excluding first day and including last day, see section 9 of this title.

2438. Where payable at bank.—Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon.

2439. Payment in due course.—Payment is made in due course when it is made at or after the maturity of the instrument to the holder thereof in good faith and without notice that his title is defective.

ARTICLE 7.—NOTICE OF DISHONOR

Sec.
2441. Notice of dishonor.
2442. By whom given.
2443. Notice of dishonor.
2444. Effect of notice.
2445. Effect where notice is given by party entitled thereto.
2446. When agent may give notice.
2447. When notice sufficient.
2448. Form of notice.
2449. To whom notice given.
2450. Notice where party is dead.
2451. Notice to partners.
2452. Notice to persons jointly liable.
2453. Notice to bankrupt.
2454. Time within which notice must be given.
2455. Notice where parties reside in same place.
2456. Notice where parties reside in different places.
Sec.
2457. Notice deemed given.
2458. Deposit in post office.
2459. Notice to subsequent party.
2460. Where notice may be sent.
2461. Waiver of notice.
2462. Who is affected by waiver.
2463. Waiver of protest.
2464. Notice dispensed with.
2465. Delay excused.
2466. When notice of dishonor is not required.
2467. When not required to be given indorser.
2468. Notice of nonpayment where acceptance refused.
2469. Effect of omission.
2470. Protest.

2441. Notice of dishonor.—Except as herein otherwise provided, when a negotiable instrument has been dishonored by nonacceptance or nonpayment, notice of dishonor must be given to the drawer and to each indorser, and any drawer or indorser to whom such notice is not given is discharged.

CROSS-REFERENCES

Notice to bankrupt, see section 2453 of this title.
Notice to partners, see section 2451 of this title.
Notice to persons jointly interested, see section 2452 of this title.
Notice to subsequent party, see section 2459 of this title.
Notice where person is dead, see section 2450 of this title.
When notice need not be given to drawer, see section 2466 of this title.
When notice need not be given to indorser, see section 2467 of this title.

2442. By whom given.—The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who upon taking it up would have a right to reimbursement from the party to whom the notice is given.

2443. Notice of dishonor.—Notice of dishonor may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.

Cross-Reference

When agent may give notice, see section 2446 of this title.

2444. Effect of notice.—Where notice is given by or on behalf of the holder, it inures for the benefit of all subsequent holders and all prior parties who have a right of recourse against the party to whom it is given.

2445. Effect where notice is given by party entitled thereto.—Where notice is given by or on behalf of a party entitled to give notice, it inures for the benefit of the holder and all parties subsequent to the party to whom notice is given.

2446. When agent may give notice.—Where the instrument has been dishonored in the hands of an agent, he may either himself give notice to the parties liable thereon or he may give notice to his principal. If he gives notice to his principal, he must do so within the same time as if he were the holder, and the principal upon the receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder.

Cross-Reference

Notice given by agent, see section 2443 of this title.

2447. When notice sufficient.—A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the instrument does not vitiate the notice unless the party to whom the notice is given is in fact misled thereby.

Cross-Reference

Form of notice, see section 2448 of this title.

2448. Form of notice.—The notice may be in writing or merely oral and may be given in any terms which sufficiently identify the instrument, and indicate that it has been dishonored by nonacceptance or nonpayment. It may in all cases be given by delivering it personally or through the mails.

2449. To whom notice given.—Notice of dishonor may be given either to the party himself or to his agent in that behalf.

2450. Notice where party is dead.—When any party is dead, and his death is known to the party giving notice, the notice must be given to a personal representative, if there be one, and if with reasonable diligence he can be found. If there be no personal representative, notice may be sent to the last residence or last place of business of the deceased.

2451. Notice to partners.—Where the parties to be notified are partners, notice to any one partner is notice to the firm, even though there has been a dissolution.

2452. Notice to persons jointly liable.—Notice to joint parties who are not partners must be given to each of them, unless one of them has authority to receive such notice for the others.

2453. Notice to bankrupt.—Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, notice may be given either to the party himself or to his trustee or assignee.

2454. Time within which notice must be given.—Notice may be given as soon as the instrument is dishonored; and unless delay is excused as hereinafter provided, must be given within the times fixed by chapters 66 to 69 of this title.

2455. Notice where parties reside in same place.—Where the person giving and the person to receive notice reside in the same place, notice must be given within the following times:

(1) If given at the place of business of the person to receive notice, it must be given before the close of business hours on the day following;

(2) If given at his residence, it must be given before the usual hours of rest on the day following;

(3) If sent by mail, it must be deposited in the post office in time to reach him in usual course on the day following.

2456. Notice where parties reside in different places.—Where the person giving and the person to receive notice reside in different places, the notice must be given within the following times:

(1) If sent by mail, it must be deposited in the post office in time to go by mail the day following the day of dishonor, or if there be no mail at a convenient hour on that day, by the next mail thereafter;

(2) If given otherwise than through the post office, then within the time that notice would have been received in due course of mail, if it had been deposited in the post office within the time specified in the last subdivision.

2457. Notice deemed given.—Where notice of dishonor is duly addressed and deposited in the post office, the sender is deemed to have given due notice, notwithstanding any miscarriage in the mails.

2458. Deposit in post office.—Notice is deemed to have been deposited in post office when deposited in any branch post office or in any letter box under the control of the Postal Service.

2459. Notice to subsequent party.—Where a party receives notice of dishonor, he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor.

2460. Where notice may be sent.—Where a party has added an address to his signature, notice of dishonor must be sent to that address; but if he has not given such address, then the notice must be sent as follows:

(1) Either to the post office nearest to his place of residence, or to the post office where he is accustomed to receive his letters; or

(2) If he live in one place, and have his place of business in another, notice may be sent to either place; or

(3) If he is sojourning in another place, notice may be sent to the place where he is sojourning.

But where the notice is actually received by the party within the time specified in chapters 66 to 69 of this title, it will be sufficient, though not sent in accordance with the requirements of this section

CROSS-REFERENCE

Effect of miscarriage of mails, see section 2457 of this title.

2461. **Waiver of notice.**—Notice of dishonor may be waived, either before the time of giving notice has arrived, or after the omission to give due notice, and the waiver may be express or implied.

2462. **Who is affected by waiver.**—Where the waiver is embodied in the instrument itself, it is binding upon all parties; but where it is written above the signature of an indorser, it binds him only.

2463. **Waiver of protest.**—A waiver of protest, whether in the case of a foreign bill of exchange or other negotiable instrument, is deemed to be a waiver not only of formal protest, but also of presentment and notice of dishonor.

2464. **Notice dispensed with.**—Notice of dishonor is dispensed with when, after the exercise of reasonable diligence, it cannot be given to or does not reach the parties sought to be charged.

2465. **Delay excused.**—Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate, notice must be given with reasonable diligence.

2466. **When notice of dishonor is not required.**—Notice of dishonor is not required to be given to the drawer in either of the following cases:

(1) Where the drawer and drawee are the same person;

(2) When the drawee is a fictitious person or a person not having capacity to contract;

(3) When the drawer is the person to whom the instrument is presented for payment;

(4) Where the drawer has no right to expect or require that the drawee or acceptor will honor the instrument;

(5) Where the drawer has countermanded payment.

2467. **When not required to be given indorser.**—Notice of dishonor is not required to be given to an indorser in either of the following cases:

(1) Where the drawee is a fictitious person or a person not having capacity to contract, and the indorser was aware of the fact at the time he indorsed the instrument;

(2) Where the indorser is the person to whom the instrument is presented for payment;

(3) Where the instrument was made or accepted for his accommodation.

2468. Notice of nonpayment where acceptance refused.—Where due notice of dishonor by nonacceptance has been given, notice of a subsequent dishonor by nonpayment is not necessary, unless in the meantime the instrument has been accepted.

2469. Effect of omission.—An omission to give notice of dishonor by nonacceptance does not prejudice the rights of a holder in due course subsequent to the omission.

2470. Protest.—Where any negotiable instrument has been dishonored it may be protested for nonacceptance or nonpayment, as the case may be; but protest is not required except in the case of foreign bills of exchange.

ARTICLE 8.—DISCHARGE OF NEGOTIABLE INSTRUMENTS

Sec.
2481. How discharged.
2482. Persons secondarily liable discharged.
2483. Right of party who discharged.
2484. Renunciation by holder.
2485. Cancelation.
2486. Alteration.
2487. Material alteration.

2481. How discharged.—A negotiable instrument is discharged—

(1) By payment in due course by or on behalf of the principal debtor;

(2) By payment in due course by the party accommodated, where the instrument is made or accepted for accommodation;

(3) By the intentional cancelation thereof by the holder;

(4) By any other act which will discharge a simple contract for the payment of money;

(5) When the principal debtor becomes the holder of the instrument at or after maturity in his own right.

2482. Persons secondarily liable discharged.—A person secondarily liable on the instrument is discharged—

(1) By any act which discharges the instrument;

(2) By the intentional cancelation of his signature by the holder;

(3) By the discharge of a prior party;

(4) By a valid tender of payment made by a prior party;

(5) By a release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved;

(6) By any agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable, or unless the right of recourse against such party is expressly reserved.

2483. Right of party who discharged.—Where the instrument is paid by a party secondarily liable thereon, it is not discharged; but the party so paying it is remitted to his former rights as regards all prior parties, and he may strike out his own and all subsequent indorsements, and again negotiate the instrument, except—

(1) Where it is payable to the order of a third person, and has been paid by the drawer; and

(2) Where it was made or accepted for accommodation, and has been paid by the party accommodated.

2484. Renunciation by holder.—The holder may expressly renounce his rights against any party to the instrument, before, at, or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument discharges the instrument. But a renunciation does not affect the rights of a holder in due course without notice. A renunciation must be in writing, unless the instrument is delivered up to the person primarily liable thereon.

2485. Cancelation.—A cancelation made unintentionally, or under a mistake or without the authority of the holder, is inoperative; but where an instrument or any signature thereon appears to have been canceled the burden of proof lies on the party who alleges that the cancelation was made unintentionally, or under a mistake or without authority.

2486. Alteration.—Where a negotiable instrument is materially altered without the assent of all parties liable thereon, it is avoided, except as against a party who has himself made, authorized or assented to the alteration, and subsequent indorsers.

But when an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor.

2487. Material alteration.—Any alteration which changes—

(1) The date;

(2) The sum payable, either for principal or interest;

(3) The time or place of payment;

(4) The number or the relations of the parties;

(5) The medium or currency in which payment is to be made;

Or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration.

CHAPTER 67.—BILLS OF EXCHANGE

Art. Sec.
1. Form and interpretation 2491
2. Acceptance 2501
3. Presentment for acceptance 2521
4. Protest 2531
5. Acceptance for honor 2541
6. Payment for honor 2561
7. Bills in a set 2571

NOTE.—Chapters 66 to 69 of this title comprise the Uniform Negotiable Instruments Act.

ARTICLE 1.—FORM AND INTERPRETATION

Sec.
2491. Bill of exchange defined.
2492. Not an assignment of funds.
2493. Addressed to more than one drawee.
2494. Inland and foreign bills.
2495. Bill treated as promissory note.
2496. Referee in case of need.

Section 2491. Bill of exchange defined.—A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer.

2492. Not an assignment of funds.—A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof, and the drawee is not liable on the bill unless and until he accepts the same.

2493. Addressed to more than one drawee.—A bill may be addressed to two or more drawees jointly, whether they are partners or not; but not to two or more drawees in the alternative or in succession.

2494. Inland and foreign bills.—An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within the Canal Zone. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill.

2495. Bill treated as promissory note.—Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person, or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or a promissory note.

2496. Referee in case of need.—The drawer of a bill and any indorser may insert thereon the name of a person to whom the holder may resort in case of need; that is to say in case the bill is dishonored by nonacceptance or nonpayment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not as he may see fit.

ARTICLE 2.—ACCEPTANCE

Sec.
2501. Acceptance.
2502. Holder entitled to acceptance on face of bill.
2503. Acceptance by separate instrument.
2504. Promise to accept.
2505. Time allowed drawee to accept.
2506. Liability of drawee retaining or destroying bill.
Sec.
2507. Acceptance of incomplete bill.
2508. Kinds of acceptance.
2509. Kinds of acceptance.
2510. Qualified acceptance.
2511. Rights of parties as to qualified acceptances.

2501. Acceptance.—The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the drawee. It must not express that the drawee will perform his promise by any other means than the payment of money.

2502. Holder entitled to acceptance on face of bill.—The holder of a bill presenting the same for acceptance may require that the acceptance be written on the bill and, if such request is refused, may treat the bill as dishonored.

2503. Acceptance by separate instrument.—Where an acceptance is written on a paper other than the bill itself, it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value.

2504. Promise to accept.—An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value.

2505. **Time allowed drawee to accept.**—The drawee is allowed twenty-four hours after presentment in which to decide whether or not he will accept the bill; but the acceptance, if given, dates as of the day of presentation.

2506. **Liability of drawee retaining or destroying bill.**—Where a drawee to whom a bill is delivered for acceptance destroys the same, or refuses within twenty-four hours after such delivery, or within such other period as the holder may allow, to return the bill accepted or nonaccepted to the holder, he will be deemed to have accepted the same.

2507. **Acceptance of incomplete bill.**—A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by a previous refusal to accept, or by nonpayment. But when a bill payable after sight is dishonored by nonacceptance and the drawee subsequently accepts it, the holder in the absence of any different agreement, is entitled to have the bill accepted as of the date of the first presentment.

2508. **Kinds of acceptance.**—An acceptance is either general or qualified. A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

2509. **Kinds of acceptance.**—An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere.

2510. **Qualified acceptance.**—An acceptance is qualified which is—

(1) Conditional; that is to say, which makes payment by the acceptor dependent on the fulfillment of a condition therein stated;

(2) Partial; that is to say, an acceptance to pay part only of the amount for which the bill is drawn;

(3) Local; that is to say, an acceptance to pay only at a particular place;

(4) Qualified as to time;

(5) The acceptance of some one or more of the drawees, but not of all.

2511. **Rights of parties as to qualified acceptances.**—The holder may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance he may treat the bill as dishonored by nonacceptance. Where a qualified acceptance is taken the drawer and indorsers are discharged from liability on the bill, unless they have expressly or impliedly authorized the holder to take a qualified acceptance, or subsequently assent thereto. When the drawer or an indorser receives notice of a qualified acceptance, he must, within a reasonable time, express his dissent to the holder, or he will be deemed to have assented thereto.

ARTICLE 3.—PRESENTMENT FOR ACCEPTANCE

Sec.
2521. When presentment for acceptance must be made.
2522. Time for presentment.
2523. To whom presentment for acceptance must be made.
2524. Presentment of bill of exchange.
2525. Presentment where time is insufficient.
2526. When presentment is excused.
2527. Bill dishonored by nonacceptance.
2528. Duty of holder where not accepted.
2529. Rights of holder where bill not accepted.

2521. When presentment for acceptance must be made.—Presentment for acceptance must be made—

(1) Where the bill is payable after sight, or in any other case, where presentment for acceptance is necessary in order to fix the maturity of the instrument; or

(2) Where the bill expressly stipulates that it shall be presented for acceptance; or

(3) Where the bill is drawn payable elsewhere than at the residence or place of business of the drawee.

In no other case is presentment for acceptance necessary in order to render any party to the bill liable.

CROSS-REFERENCE

Presentment, when excused, see section 2526 of this title.

2522. Time for presentment.—Except as herein otherwise provided, the holder of a bill which is required by the next preceding section to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time. If he fails to do so, the drawer and all indorsers are discharged.

2523. To whom presentment for acceptance must be made.—Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour, on a business day and before the bill is overdue, to the drawee or some person, authorized to accept or refuse acceptance on his behalf; and—

(1) Where a bill is addressed to two or more drawees who are not partners, presentment must be made to them all, unless one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only;

(2) Where the drawee is dead, presentment may be made to his personal representative;

(3) Where the drawee has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors, presentment may be made to him or to his trustee or assignee.

2524. Presentment of bill of exchange.—A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections 2423 to 2436 of this title. When Saturday is not otherwise a holiday, presentment for acceptance may be made before twelve o'clock noon, on that day.

2525. Presentment where time is insufficient.—Where the holder of a bill drawn payable elsewhere than at the place of business or the residence of the drawee has not time with the exercise of reasonable diligence to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawers and indorsers.

2526. When presentment is excused.—Presentment for acceptance is excused and a bill may be treated as dishonored by nonacceptance, in either of the following cases:

(1) Where the drawee is dead, or has absconded, or is a fictitious person, or a person not having capacity to contract by bill;

(2) Where, after the exercise of reasonable diligence, presentment cannot be made;

(3) Where, although presentment has been irregular, acceptance has been refused on some other ground.

2527. Bill dishonored by nonacceptance.—A bill is dishonored by nonacceptance—

(1) When it is duly presented for acceptance and such an acceptance as is prescribed by chapters 66 to 69 of this title is refused or cannot be obtained; or

(2) When presentment for acceptance is excused and the bill is not accepted.

2528. Duty of holder where not accepted.—Where a bill is duly presented for acceptance and is not accepted within the prescribed time the person presenting it must treat the bill as dishonored by nonacceptance or he loses the right of recourse against the drawer and indorsers.

2529. Rights of holder where bill not accepted.—When a bill is dishonored by nonacceptance, an immediate right of recourse against the drawers and indorsers accrues to the holder and no presentment for payment is necessary.

ARTICLE 4.—PROTEST

Sec.
2531. In what cases protest necessary.
2532. How made.
2533. By whom made.
2534. When made.
2535. Where made.
Sec.
2536. Protest both for nonacceptance and nonpayment.
2537. Protest before maturity.
2538. When dispensed with.
2539. When bill is lost, etc.

2531. In what cases protest necessary.—Where a foreign bill appearing on its face to be such is dishonored by nonacceptance, it must be duly protested for nonacceptance, and where such a bill which has not previously been dishonored by nonacceptance is dishonored by nonpayment, it must be duly protested for nonpayment. If it is not so protested, the drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill, protest thereof in case of dishonor is unnecessary.

2532. How made.—The protest must be annexed to the bill, or must contain a copy thereof, and must be under the hand and seal of the notary making it, and must specify—

(1) The time and place of presentment;

(2) The fact that presentment was made and the manner thereof;

(3) The cause or reason for protesting the bill;

(4) The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

2533. By whom made.—Protest may be made by—

(1) A notary public; or

(2) By any respectable resident of the place where the bill is dishonored, in the presence of two or more credible witnesses.

2534. When made.—When a bill is protested, such protest must be made on the day of its dishonor, unless delay is excused as herein provided. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

2535. Where made.—A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business, or residence of some person other than the drawee, has been dishonored by nonacceptance, it must be protested for nonpayment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

2536. Protest both for nonacceptance and nonpayment.—A bill which has been protested for nonacceptance may be subsequently protested for nonpayment.

2537. Protest before maturity.—Where the acceptor has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, before the bill matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

2538. When dispensed with.—Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence.

2539. When bill is lost, etc.—When a bill is lost or destroyed or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

ARTICLE 5.—ACCEPTANCE FOR HONOR

Sec.
2541. Acceptance for honor.
2542. How made.
2543. What deemed to be an acceptance for honor of the drawer.
2544. Liability of acceptor.
2545. Agreement of acceptor for honor.
Sec.
2546. Bill payable after sight.
2547. Protest.
2548. Presentment to acceptor.
2549. Delay in presentment.
2550. Dishonor of bill by acceptor for honor.

2541. Acceptance for honor.—Where a bill of exchange has been protested for dishonor by nonacceptance or protested for better security, and is not overdue, any person not being a party already liable thereon may, with the consent of the holder, intervene and accept the bill supra protest for the honor of any party liable thereon, or for the honor of the person for whose account the bill is drawn. The acceptance for honor may be for the part only of the sum for which the bill is drawn; and where there has been an acceptance for honor for one party, there may be a further acceptance by a different person for the honor of another party.

2542. How made.—An acceptance for honor supra protest must be in writing, and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

2543. What deemed to be an acceptance for honor of the drawer.—Where an acceptance for honor does not expressly state for whose honor it is made, it is deemed to be an acceptance for the honor of the drawer.

2544. Liability of acceptor.—The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted.

2545. Agreement of acceptor for honor.—The acceptor for honor by such acceptance engages that he will on due presentment pay the bill according to the terms of his acceptance; provided, it shall not have been paid by the drawee; and provided, also, that it shall have been duly presented for payment and protested for nonpayment and notice of dishonor given him.

2546. Bill payable after sight.—Where a bill payable after sight is accepted for honor, its maturity is calculated from the date of the noting for nonacceptance and not from the date of the acceptance for honor.

2547. Protest.—Where a dishonored bill has been accepted for honor supra protest or contains a reference in case of need, it must be protested for nonpayment before it is presented for payment to the acceptor for honor or referee in case of need.

2548. Presentment to acceptor.—Presentment for payment to the acceptor for honor must be made as follows:

(1) If it is to be presented in the place where the protest for nonpayment was made, it must be presented not later than the day following its maturity.

(2) If it is to be presented in some other place than the place where it was protested, then it must be forwarded within the time specified in section 2456 of this title.

2549. Delay in presentment.—The provisions of section 2432 of this title apply where there is delay in making presentment to the acceptor for honor or referee in case of need.

2550. Dishonor of bill by acceptor for honor.—When the bill is dishonored by the acceptor for honor it must be protested for nonpayment by him.

ARTICLE 6.—PAYMENT FOR HONOR

Sec.
2561. Payment for honor.
2562. Payment for honor, how made.
2563. Declaration.
2564. Preference of parties.

Sec.
2565. Subsequent parties discharged.
2566. Right of recourse lost.
2567. Right of payer for honor.

2561. Payment for honor.—Where a bill has been protested for nonpayment, any person may intervene and pay it supra protest for the honor of any person liable thereon or for the honor of the person for whose account it was drawn.

2562. Payment for honor, how made.—The payment for honor supra protest in order to operate as such and not as a mere voluntary payment must be attested by a notarial act of honor which may be appended to the protest or form an extension to it.

2563. Declaration.—The notarial act of honor must be founded on a declaration made by the payer for honor or by his agent in that behalf declaring his intention to pay the bill for honor and for whose honor he pays.

2564. Preference of parties.—Where two or more persons offer to pay a bill for the honor of different parties, the person whose payment will discharge most parties to the bill is to be given the preference.

2565. Subsequent parties discharged.—Where a bill has been paid for honor, all parties subsequent to the party for whose honor it is paid are discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties of the holder as regards the party for whose honor he pays and all parties liable to the latter.

2566. Right of recourse lost.—Where the holder of a bill refuses to receive payment supra protest, he loses his right of recourse against any party who would have been discharged by such payment.

2567. Right of payer for honor.—The payer for honor, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest.

ARTICLE 7.—BILLS IN A SET

Sec.
2571. Bills in sets one bill.
2572. Where different parts are negotiated.
2573. Liability of holder.
Sec.
2574. Acceptance.
2575. Payment by acceptor.
2576. Whole bill discharged.

2571. Bills in sets one bill.—Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitutes one bill.

2572. Where different parts are negotiated.—Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is, as between such holders, the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

2573. Liability of holder.—Where the holder of a set indorses two or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills.

2574. Acceptance.—The acceptance may be written on any part and it must be written on one part only. If the drawee accepts more than one part, and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill.

2575. Payment by acceptor.—When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereon.

2576. Whole bill discharged.—Except as herein otherwise provided, where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

CHAPTER 68.—PROMISSORY NOTES AND CHECKS

Sec.
2581. Promissory note defined.
2582. Check defined.
2583. Time for presenting check.
2584. Certified check.
2585. Effect of acceptance or certification.
2586. When check operates as assignment.

NOTE.—Chapters 66 to 69 of this title comprise the Uniform Negotiable Instruments Act.

Section 2581. Promissory note defined.—A negotiable promissory note within the meaning of chapters 66 to 69 of this title is an unconditional promise in writing made by one person to another, signed by the maker, engaging to pay on demand, or at a fixed or determinable future time, a sum certain in money to order or to bearer, but the negotiability of a promissory note otherwise negotiable in form, secured by a mortgage or deed of trust upon real or personal property, shall not be affected or abridged by reason of a statement therein that it is so secured, nor by reason of the fact that said instrument is so secured, nor by any conditions contained in the mortgage or deed of trust securing the same. Where a note is drawn to the maker's own order it is not complete until indorsed by him.

2582. Check defined.—A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided, the provisions of chapters 66 to 69 of this title applicable to a bill of exchange payable on demand apply to a check.

2583. Time for presenting check.—A check must be presented for payment within a reasonable time after its issue or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.

2584. Certified check.—Where a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance.

2585. Effect of acceptance or certification.—Where the holder of a check procures it to be accepted or certified, the drawer and all indorsers are discharged from liability thereon.

2586. When check operates as assignment.—A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder, unless and until it accepts or certifies the check.

CHAPTER 69.—GENERAL PROVISIONS RESPECTING NEGOTIABLE INSTRUMENTS

Sec.
2591. Definitions.
2592. Person primarily liable on instrument.
2593. Reasonable time, what constitutes.
2594. Time, how computed when last day falls on holiday.
2595. Application of chapters 66 to 69.

NOTE.—Chapters 66 to 69 of this title comprise the Uniform Negotiable Instruments Act.

Section 2591. Definitions.—In chapters 66 to 69 of this title, unless the context otherwise requires—

"Acceptance" means an acceptance completed by delivery or notification.

"Action" includes counterclaim and set-off.

"Bank" includes any person or association of persons carrying on the business of banking, whether incorporated or not.

"Bearer" means the person in possession of a bill or note which is payable to bearer.

"Bill" means bill of exchange, and "note" means negotiable promissory note.

"Delivery" means transfer of possession, actual or constructive, from one person to another.

"Holder" means the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof.

"Indorsement" means an indorsement completed by delivery.

"Instrument" means negotiable instrument.

"Issue" means the first delivery of the instrument complete in form, to a person who takes it as a holder.

"Person" includes a body of persons, whether incorporated or not.

"Value" means valuable consideration.

"Written" includes printed; and "writing" includes print.

2592. Person primarily liable on instrument.—The person "primarily" liable on an instrument is the person who by the terms of the instrument is absolutely required to pay the same. All other parties are "secondarily" liable.

2593. Reasonable time, what constitutes.—In determining what is a "reasonable time" or an "unreasonable time," regard is to be had to the nature of the instrument, the usage of trade or business (if any) with respect to such instruments, and the facts of the particular case.

2594. Time, how computed when last day falls on holiday.—Where the day, or the last day, for doing any act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day.

2595. Application of chapters 66 to 69.—The provisions of chapters 66 to 69 of this title do not apply to negotiable instruments made and delivered prior to the taking effect hereof. In any case not provided for in said chapters the rules of the law merchant shall govern.

CHAPTER 70.—GENERAL PROVISIONS AFFECTING CHAPTERS 34 TO 69

Section 2601. Parties may waive provisions of title.—Except where it is otherwise declared, the provisions of chapters 34 to 69 of this title, in respect to the rights and obligations of parties to contracts, are subordinate to the intention of the parties, when ascertained in the manner prescribed by the chapter on the interpretation of contracts; and the benefit thereof may be waived by any party entitled thereto, unless such waiver would be against public policy.

Cross-Reference

Interpretation of contracts, see sections 901 et seq., of this title.

CHAPTER 71.—RELIEF IN GENERAL

Sec.
2611. Species of relief.
Sec.
2612. Relief in case of forfeiture.

Section 2611. Species of relief.—As a general rule compensation is a relief or remedy provided by the law of the Canal Zone for the violation of private rights, and the means of securing their observance; and specific and preventive relief may be given in no other cases than those specified in this chapter and chapters 72 and 73 of this title.

Cross-References

Injunction, see sections 2741 et seq., of this title.

Person suffering detriment may recover damages, see section 2621 of this title.

Specific performance, see sections 2701 et seq., of this title.

2612. Relief in case of forfeiture.—Whenever, by the terms of an obligation, a party thereto incurs a forfeiture, or a loss in the nature of a forfeiture, by reason of his failure to comply with its provisions, he may be relieved therefrom, upon making full compensation to the other party, except in case of a grossly negligent, willful, or fraudulent breach of duty.

CHAPTER 72.—COMPENSATORY RELIEF

Art. Sec.
1. Damages in general ____________ 2621
Art. Sec.
2. Measure of damages ___________ 2651

ARTICLE 1.—DAMAGES IN GENERAL

A. General Principles

Sec.
2621. Person suffering detriment may recover damages.
2622. Detriment, what.
2623. Injuries resulting or probable after suit brought.

B. Interest as Damages

2631. Person entitled to recover damages may recover interest thereon.
Sec.
2632. In actions other than contract.
2633. Limit of rate by contract.
2634. Acceptance of principal waives claim to interest.

C. Exemplary Damages

2641. Exemplary damages, in what cases allowed.

A. GENERAL PRINCIPLES

Section 2621. Person suffering detriment may recover damages.—Every person who suffers detriment from the unlawful act or omission of another, may recover from the person in fault a compensation therefor in money, which is called damages.

CROSS-REFERENCES

Damages are exclusive of exemplary damages and interest, except where those are expressly mentioned, see section 2673 of this title.
Damages for breach of contract, see sections 2651 et seq., of this title.
Damages for torts, see sections 2661 et seq., of this title.
Damages must be reasonable, see section 2675 of this title.
Exemplary damages, see section 2641 of this title.
Excessive damages, new trial for, see title 4, section 532.
Interest on damages, see sections 2631 and 2632 of this title.
Limitation on amount of damages, see section 2674 of this title.
Nominal damages, see section 2676 of this title.

2622. Detriment, what.—Detriment is a loss or harm suffered in person or property.

2623. Injuries resulting or probable after suit brought.—Damages may be awarded, in a judicial proceeding, for detriment resulting after the commencement thereof or certain to result in the future.

B. INTEREST AS DAMAGES

2631. Person entitled to recover damages may recover interest thereon.—Every person who is entitled to recover damages certain, or capable of being made certain by calculation, and the right to recover which is vested in him upon a particular day, is entitled also to recover interest thereon from that day, except during such time as the debtor is prevented by law, or by the act of the creditor, from paying the debt.

CROSS-REFERENCES

Damages prescribed in title are exclusive of interest, see section 2673 of this title.
Interest as damages, see section 1050 of this title.
Interest as damages on breach of contract, see section 2653 of this title.
Interest in actions for conversion, see section 2662 of this title.

2632. In actions other than contract.—In an action for the breach of an obligation not arising from contract, and in every case of oppression, fraud, or malice, interest may be given, in the discretion of the court or jury.

CROSS-REFERENCE

Interest in trover and conversion, see section 2662 of this title.

2633. Limit of rate by contract.—Any legal rate of interest stipulated by a contract remains chargeable after a breach thereof, as before, until the contract is superseded by a judgment or other new obligation.

2634. Acceptance of principal waives claim to interest.—Accepting payment of the whole principal, as such, waives all claims to interest.

C. EXEMPLARY DAMAGES

2641. Exemplary damages, in what cases allowed.—In an action for the breach of an obligation not arising from contract, where the defendant has been guilty of oppression, fraud, or malice, express or implied, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

CROSS-REFERENCES

Damages for wrongs, generally, see sections 2661 et seq., of this title.

Damages prescribed in title exclusive of exemplary damages, see section 2673 of this title.

Infants and insane persons, liability for exemplary damages, see section 33 of this title.

Injuries to animals, exemplary damages for, see section 2666 of this title.

Person embezzling from estate, liable in double damages, see title 4, section 1451.

ARTICLE 2.—MEASURE OF DAMAGES

A. DAMAGES FOR BREACH OF CONTRACT

Sec.

2651. Measure of damages for breach of contract.
2652. Damages must be certain.
2653. Breach of contract to pay liquidated sum.
2654. Breach of carrier's obligation to receive goods, etc.
2655. Breach of carrier's obligation to deliver.
2656. Carrier's delay.
2657. Breach of warranty of authority.
2658. Breach of promise of marriage.
2659. Liability for nonpayment of check.

B. DAMAGES FOR WRONGS

Sec.

2661. Breach of obligation other than contract.
2662. Conversion of personal property.
2663. Same.
2664. Damages of lienor.
2665. Seduction.
2666. Injuries to animals.

C. GENERAL PROVISIONS

2671. Property of peculiar value.
2672. Value of thing in action.
2673. Damages allowed in this article, exclusive of others.
2674. Limitation of damages.
2675. Damages to be reasonable.
2676. Nominal damages.

A. DAMAGES FOR BREACH OF CONTRACT

CROSS-REFERENCES

Breach of warranty, see section 1049 of this title.

Measure of damages for breach of contracts to sell and sales of personal property, see sections 981 et seq., of this title.

2651. Measure of damages for breach of contract.—For the breach of an obligation arising from contract, the measure of damages, except where otherwise expressly provided by this title, is the amount which will compensate the party aggrieved for all the detriment proximately caused thereby, or which, in the ordinary course of things, would be likely to result therefrom.

CROSS-REFERENCES

Contract fixing damages for breach in advance, effect of, see section 934 of this title.

Damages limited to amount one would gain by performance, see section 2674 of this title.

Damages to be reasonable, see section 2675 of this title.

Nominal damages, see section 2676 of this title.

2652. Damages must be certain.—No damages can be recovered for a breach of contract which are not clearly ascertainable in both their nature and origin.

2653. Breach of contract to pay liquidated sum.—The detriment caused by the breach of an obligation to pay money only, is deemed to be the amount due by the terms of the obligation, with interest thereon.

2654. Breach of carrier's obligation to receive goods, etc.—The detriment caused by the breach of a carrier's obligation to accept freight, messages, or passengers, is deemed to be the difference between the amount which he had a right to charge for the carriage and the amount which it would be necessary to pay for the same service when it ought to be performed.

CROSS-REFERENCE

Obligation to receive freight, see section 1472 of this title.

2655. Breach of carrier's obligation to deliver.—The detriment caused by the breach of a carrier's obligation to deliver freight, where he has not converted it to his own use, is deemed to be the value thereof at the place and on the day at which it should have been delivered, deducting the freightage to which he would have been entitled if he had completed the delivery.

CROSS-REFERENCES

Delivery of property by carrier, see section 1434 of this title.
Stoppage in transitu, see sections 1037 et seq., of this title.

2656. Carrier's delay.—The detriment caused by a carrier's delay in the delivery of freight, is deemed to be the depreciation in the intrinsic value of the freight during the delay, and also the depreciation, if any, in the market value thereof, otherwise than by reason of a depreciation in its intrinsic value, at the place where it ought to have been delivered, and between the day at which it ought to have been delivered, and the day of its actual delivery.

CROSS-REFERENCES

Carrier's liability for delay, see section 1493 of this title.
Delay in carriage, liability for, see sections 1415 and 1493 of this title.

2657. Breach of warranty of authority.—The detriment caused by the breach of a warranty of an agent's authority, is deemed to be the amount which could have been recovered and collected from his principal if the warranty had been complied with, and the reasonable expenses of legal proceedings taken, in good faith, to enforce the act of the agent against his principal.

CROSS-REFERENCE

Warranty of authority by one assuming to act as agent, see section 1671 of this title.

2658. Breach of promise of marriage.—The damages for the breach of a promise of marriage rest in the sound discretion of the court or jury.

2659. Liability for nonpayment of check.—No bank shall be liable to a depositor because of the nonpayment through mistake or error, and without malice, of a check which should have been paid unless the depositor shall allege and prove actual damage by reason of such nonpayment and in such event the liability shall not exceed the amount of damage so proved.

B. DAMAGES FOR WRONGS

2661. Breach of obligation other than contract.—For the breach of an obligation not arising from contract the measure of damages, except where otherwise expressly provided by this title, is the amount which will compensate for all the detriment proximately caused thereby, whether it could have been anticipated or not.

CROSS-REFERENCE

Diminution of damages in proportion to want of care of person injured, see section 977 of this title.

2662. Conversion of personal property.—The detriment caused by the wrongful conversion of personal property is presumed to be—

First. The value of the property at the time of the conversion, with the interest from that time, or where the action has been prosecuted with reasonable diligence, the highest market value of the property at any time between the conversion and the judgment, without interest, at the option of the injured party; and

Second. A fair compensation for the time and money properly expended in pursuit of the property.

2663. Same.—The presumption declared by the next preceding section cannot be repelled in favor of one whose possession was wrongful from the beginning, by his subsequent application of the property to the benefit of the owner, without his consent.

2664. Damages of lienor.—One having a mere lien on personal property, cannot recover greater damages for its conversion, from one having a right thereto superior to his, after his lien is discharged, than the amount secured by the lien, and the compensation allowed by section 2662 of this title for loss of time and expenses.

CROSS-REFERENCES

Damages for conversion of personalty, generally, see section 2662 of this title.
Levy on mortgaged chattel, see section 2269 of this title.

2665. Seduction.—The damages for seduction rest in the sound discretion of the court or jury.

CROSS-REFERENCES

Action by parent or guardian, see title 4, section 130.
Action by unmarried female, see title 4, section 129.

2666. Injuries to animals.—For wrongful injuries to animals being subjects of property, committed willfully or by gross negligence, in disregard of humanity, exemplary damages may be given.

CROSS-REFERENCE

Exemplary damages, generally, see section 2641 of this title.

C. GENERAL PROVISIONS

2671. Property of peculiar value.—Where certain property has a peculiar value to a person recovering damages for deprivation thereof, or injury thereto, that may be deemed to be its value against one who had notice thereof before incurring a liability to damages in respect thereof, or against a willful wrongdoer.

2672. Value of thing in action.—For the purpose of estimating damages, the value of an instrument in writing is presumed to be equal to that of the property to which it entitles its owner.

2673. Damages allowed in this article, exclusive of others.—The damages prescribed by sections 2651 to 2676 of this title are exclusive of exemplary damages and interest, except where those are expressly mentioned.

CROSS-REFERENCES

Exemplary damages, see section 2641 of this title.
Interest, see sections 1050 and 2631 to 2634 of this title.

2674. Limitation of damages.—Notwithstanding the provisions of sections 2651 to 2676 of this title, no person can recover a greater amount in damages for the breach of an obligation than he could have gained by the full performance thereof on both sides, except in the cases specified in section 2641 of this title on exemplary damages and in sections 2658, 2665, and 2666 of this title.

CROSS-REFERENCE

Exemplary damages, see section 2641 of this title.

2675. Damages to be reasonable.—Damages must, in all cases, be reasonable, and where an obligation of any kind appears to create a right to unconscionable and grossly oppressive damages, contrary to substantial justice, no more than reasonable damages can be recovered.

CROSS-REFERENCE

Liquidated damages and penalty, see sections 933 and 934 of this title.

2676. Nominal damages.—When a breach of duty has caused no appreciable detriment to the party affected, he may yet recover nominal damages.

CHAPTER 73.—SPECIFIC AND PREVENTIVE RELIEF

Art.	Sec.
1. General principles	2681
2. Specific relief	2691
3. Preventive relief	2741

ARTICLE 1.—GENERAL PRINCIPLES

Sec.
2681. Specific relief, etc., when allowed.
2682. Specific relief, how given.
2683. Preventive relief, how given.
2684. Not to enforce penalty, etc.

Section 2681. Specific relief, etc., when allowed.—Specific or preventive relief may be given as provided by the laws of the Canal Zone.

Cross-References

Cancellation of instruments, see sections 2731 et seq., of this title.
Claim and delivery, see title 4, sections 321 et seq., and 751.
Injunctions, see sections 2741 et seq., of this title.
Possession of personal property, see sections 2691 et seq., of this title.
Rescission of contracts, see sections 951 et seq., and 2721 et seq., of this title.
Revision of contracts, see sections 2711 et seq., of this title.
Specific performance of obligation, see sections 2701 et seq., of this title.

2682. Specific relief, how given.—Specific relief is given—

1. By taking possession of a thing and delivering it to a claimant;
2. By compelling a party himself to do that which ought to be done; or
3. By declaring and determining the rights of parties, otherwise than by an award of damages.

Cross-Reference

Writ of mandate, see title 4, sections 1051 to 1061.

2683. Preventive relief, how given.—Preventive relief is given by prohibiting a party from doing that which ought not to be done.

Cross-References

Preventive relief, generally, see sections 2741 et seq., of this title.
Injunction, see title 4, sections 341 to 346.
Prohibition, see title 4, sections 1071 to 1074.
Certiorari, see title 4, sections 1031 et seq.
Contempt, see title 4, sections 1161 et seq.

2684. Not to enforce penalty, etc.—Neither specific nor preventive relief can be granted to enforce a penal law, except in a case of nuisance, nor to enforce a penalty or forfeiture in any case.

ARTICLE 2.—SPECIFIC RELIEF

A. Possession of Personal Property

Sec.
2691. Judgment for delivery.
2692. Specific delivery.

B. Specific Performance of Obligations

2701. Specific performance.
2702. No remedy unless mutual.
2703. Contract signed by one party only, may be enforced by other.
2704. Liquidation of damages not a bar to specific performance.
2705. What cannot be specifically enforced.
2706. What parties cannot be compelled to perform.
2707. What parties cannot have specific performance in their favor.

C. Revision of Contracts

Sec.
2711. When contract may be revised.
2712. Presumption as to intent of parties.
2713. Principles of revision.
2714. Enforcement of revised contract.

D. Rescission of Contracts

2721. When rescission may be adjudged.
2722. Rescission for mistake.
2723. Court may require party rescinding to do equity.

E. Cancelation of Instruments

2731. When cancelation may be ordered.
2732. Instruments obviously void.
2733. Cancelation in part.
2734. Reissuance, etc., of lost private documents or instruments.

A. POSSESSION OF PERSONAL PROPERTY

2691. Judgment for delivery.—A person entitled to the immediate possession of specific personal property may recover the same in the manner provided by Title 4, The Code of Civil Procedure.

Cross-Reference

Claim and delivery, see title 4, sections 321 to 332.

2692. Specific delivery.—Any person having the possession or control of a particular article of personal property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession.

B. SPECIFIC PERFORMANCE OF OBLIGATIONS

2701. Specific performance.—Except as otherwise provided in sections 2702 to 2707 of this title, the specific performance of an obligation may be compelled.

Cross-References

Specifically enforcing revised contract, see section 2714 of this title.

Specific performance, see sections 2705 and 2707 of this title.

Specific performance of contract to deliver specific or ascertained goods, see section 1048 of this title.

Enforcement of contract of decedent, see title 4, sections 1541 et seq.

2702. No remedy unless mutual.—Neither party to an obligation can be compelled specifically to perform it, unless the other party thereto has performed, or is compellable specifically to perform, everything to which the former is entitled under the same obligation, either completely or nearly so, together with full compensation for any want of entire performance.

Cross-Reference

Performance by parties seeking execution, compare with section 2707 of this title.

2703. Contract signed by one party only, may be enforced by other.—A party who has signed a written contract may be compelled specifically to perform it, though the other party has not signed it, if the latter has performed, or offers to perform it on his part, and the case is otherwise proper for enforcing specific performance.

2704. Liquidation of damages not a bar to specific performance.—A contract otherwise proper to be specifically enforced, may be thus enforced, though a penalty is imposed, or the damages are liquidated for its breach, and the party in default is willing to pay the same.

2705. What cannot be specifically enforced.—The following obligations cannot be specifically enforced:

1. An obligation to render personal service;
2. An obligation to employ another in personal service;
3. An agreement to submit a controversy to arbitration;
4. An agreement to perform an act which the party has not power lawfully to perform when required to do so;
5. An agreement to procure the act or consent of the wife of the contracting party, or of any other third person; or
6. An agreement, the terms of which are not sufficiently certain to make the precise act which is to be done clearly ascertainable.

Cross-Reference

What parties cannot have specific performance, see section 2707 of this title.

2706. What parties cannot be compelled to perform.—Specific performance cannot be enforced against a party to a contract in any of the following cases:

1. If he has not received an adequate consideration for the contract;
2. If it is not, as to him, just and reasonable;
3. If his assent was obtained by the misrepresentation, concealment, circumvention, or unfair practices of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled; or
4. If his assent was given under the influence of mistake, misapprehension, or surprise, except that where the contract provides for compensation in case of mistake, a mistake within the scope of such provision may be compensated for, and the contract specifically enforced in other respects, if proper to be so enforced.

2707. What parties cannot have specific performance in their favor.—Specific performance cannot be enforced in favor of a party who has not fully and fairly performed all the conditions precedent on his part to the obligation of the other party, except where his failure to perform is only partial, and either entirely immaterial, or capable of being fully compensated, in which case specific performance may be compelled, upon full compensation being made for the default.

Cross-Reference

What obligations cannot be specifically enforced, see section 2705 of this title.

C. REVISION OF CONTRACTS

2711. When contract may be revised.—When, through fraud or a mutual mistake of the parties, or a mistake of one party, which the other at the time knew or suspected, a written contract does not truly express the intention of the parties, it may be revised on the application of a party aggrieved, so as to express that intention, so far as it can be done without prejudice to rights acquired by third persons, in good faith and for value.

Cross-References

Contract disregarded where not expressing intent through fraud or mistake, see section 906 of this title.

Revised to express intention, see section 2713 of this title.

2712. Presumption as to intent of parties.—For the purpose of revising a contract, it must be presumed that all the parties thereto intended to make an equitable and conscientious agreement.

2713. Principles of revision.—In revising a written instrument, the court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences, and is not confined to the inquiry what the language of the instrument was intended to be.

2714. Enforcement of revised contract.—A contract may be first revised and then specifically enforced.

D. RESCISSION OF CONTRACTS

2721. When rescission may be adjudged.—The rescission of a written contract may be adjudged, on the application of a party aggrieved:

1. In any of the cases mentioned in section 952 of this title;
2. Where the contract is unlawful, for causes not apparent upon its face, and the parties were not equally in fault; or
3. When the public interest will be prejudiced by permitting it to stand.

Cross-References

Cancelation of instruments, see sections 2731 et seq., of this title.
Rescission of contracts by party thereto, see section 952 of this title.
Rescission, how effected, see section 954 of this title.

2722. Rescission for mistake.—Rescission cannot be adjudged for mere mistake, unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

Cross-References

Mistake, see sections 832 et seq., of this title.
Placing party in statu quo, see section 954 of this title.

2723. Court may require party rescinding to do equity.—On adjudging the rescission of a contract, the court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

E. CANCELATION OF INSTRUMENTS

2731. When cancelation may be ordered.—A written instrument, in respect to which there is a reasonable apprehension that if left outstanding it may cause serious injury to a person against whom it is void or voidable, may, upon his application, be so adjudged, and ordered to be delivered up or canceled.

Cross-References

Cancelation and alteration of instruments by parties thereto, see section 961 et seq., of this title.
Rescission of contracts, see sections 951 et seq., and 2721 et seq., of this title.
Removing cloud on title, see title 4, section 661.

2732. Instrument obviously void.—An instrument, the invalidity of which is apparent upon its face or upon the face of another instrument which is necessary to the use of the former in evidence, is not to be deemed capable of causing injury, within the provisions of the next preceding section.

2733. Cancelation in part.—Where an instrument is evidence of different rights or obligations, it may be canceled in part, and allowed to stand for the residue.

2734. Reissuance, etc., of lost private documents or instruments.—An action may be maintained by any person interested in any private document or instrument in writing, which has been lost, destroyed, or damaged by conflagration or other public calamity, to prove, establish, compel the reissuance, reexecution, and reacknowledgment of such document or instrument. If such document or instrument be a negotiable instrument, the court must compel the person in whose favor it is drawn to give a bond executed by himself and two sufficient sureties to indemnify the person reissuing, reexecuting, or reacknowledging the same against any lawful claim thereon.

ARTICLE 3.—PREVENTIVE RELIEF

Sec.
2741. Preventive relief, how granted.
2742. Injunctions regulated by title 4.

2741. Preventive relief, how granted.—Preventive relief is granted by injunction, preliminary or final.

CROSS-REFERENCES

Enjoining nuisance, see title 4, section 651.
Mortgage, restraining waste during foreclosure, see title 4, section 668.

2742. Injunctions regulated by title 4.—Injunctions are regulated by Title 4, The Code of Civil Procedure.

CROSS-REFERENCE

Provisional injunctions, see title 4, sections 341 et seq.

CHAPTER 74.—SPECIAL RELATIONS OF DEBTOR AND CREDITOR

Art.	Sec.
1. General principles	2751
2. Fraudulent instruments and transfers	2761
3. Assignments for benefit of creditors	2771

ARTICLE 1.—GENERAL PRINCIPLES

Sec.
2751. Who is a debtor.
2752. Who is a creditor.
2753. Contracts of debtor are valid.
2754. Payments in preference.
2755. Relative rights of different creditors.

Section 2751. Who is a debtor.—A debtor, within the meaning of this chapter, is one who, by reason of an existing obligation, is or may become liable to pay money to another, whether such liability is certain or contingent.

2752. Who is a creditor.—A creditor, within the meaning of this chapter, is one in whose favor an obligation exists, by reason of which he is, or may become, entitled to the payment of money.

2753. Contracts of debtor are valid.—In the absence of fraud, every contract of a debtor is valid against all his creditors, existing or subsequent, who have not acquired a lien on the property affected by such contract.

2754. Payments in preference.—A debtor may pay one creditor in preference to another, or may give to one creditor security for the payment of his demand in preference to another.

CROSS-REFERENCE

Preferring creditor, see section 2779 (1) of this title.

2755. Relative rights of different creditors.—Where a creditor is entitled to resort to each of several funds for the satisfaction of his claim, and another person has an interest in, or is entitled as a creditor to resort to some, but not all of them, the latter may require the former to seek satisfaction from those funds to which the latter has no such claim, so far as it can be done without impairing the right of the former to complete satisfaction, and without doing injustice to third persons.

CROSS-REFERENCE

Order of resort to different funds, see section 2202 of this title.

ARTICLE 2.—FRAUDULENT INSTRUMENTS AND TRANSFERS

Sec.
2761. Transfers, etc., with intent to defraud creditors.
2762. Transfers presumed fraudulent.
2763. Creditor's right must be judicially ascertained.

2761. Transfers, etc., with intent to defraud creditors.—Every transfer of property or charge thereon made, every obligation incurred, and every judicial proceeding taken, with intent to delay or defraud any creditor or other person of his demands, is void against all creditors of the debtor, and their successors in interest, and against any person upon whom the estate of the debtor devolves in trust for the benefit of others than the debtor.

CROSS-REFERENCES

Arrest, see title 4, section 292.

Undertaking in action to set aside fraudulent conveyance, see title 4, sections 561 et seq.

2762. Transfers presumed fraudulent.—Every transfer of personal property, other than a thing in action, or a ship or cargo at sea or in a foreign port, and every lien thereon, other than a mortgage, when allowed by law, and a contract of bottomry or respondentia, is conclusively presumed if made by a person having at the time the possession or control of the property, and not accompanied by an immediate delivery, and followed by an actual and continued change of possession of the things transferred, to be fraudulent, and therefore void, against those who are his creditors while he remains in possession, and the successors in interest of such creditors, and against any persons on whom his estate devolves in trust for the benefit of others than himself, and against purchasers or encumbrancers in good faith subsequent to the transfer: *Provided, however*, That the provisions of this section shall not apply or extend to any sale, transfer, assignment, or mortgage made under the direction or order of a court of competent jurisdiction or by any executor, administrator, guardian, receiver, or other officer or person acting in the regular and proper discharge of official duty or in the discharge of any trust imposed upon him by law, nor to any transfer or assignment, statutory or otherwise, made for the benefit of creditors, generally, nor to any sale, transfer, assignment, or mortgage of any property exempt from execution.

CROSS-REFERENCES

Chattel mortgage, when void as to creditors and purchasers, see section 2264 of this title.

Recovery by executor of property fraudulently conveyed by decedent, see title 4, sections 1529 to 1531.

2763. Creditor's right must be judicially ascertained.—A creditor can avoid the act or obligation of his debtor for fraud only where the fraud obstructs the enforcement, by legal process, of his right to take the property affected by the transfer or obligation.

ARTICLE 3.—ASSIGNMENTS FOR BENEFIT OF CREDITORS

Sec.
2771. When debtor may execute assignment.
2772. Form of assignment.
2773. Custody of property; creditors' meeting and notice thereof; election of assignee.
2774. Marshal's fees.
2775. Powers and duties of elected assignee.
2776. Insolvency, what.
2777. Certain transfers not affected.
2778. What debts may be secured.
2779. Assignment when void.
2780. Assignment to be in writing.
2781. Compliance with provisions of last section necessary to validity of assignment.
2782. Assignee takes. subject to rights of third parties.
Sec.
2783. Inventory required.
2784. Affidavit of assignor to be filed with inventory.
2785. Recording assignment and filing inventory.
2786. Assignment, when void.
2787. Bond of assignees.
2788. Conditions of disposal and conversion; publication of notice by assignee; dividends; rights of mortgagee.
2789. Accounting of assignee.
2790. Property exempt.
2791. Commissions of assignees.
2792. Assignees protected for acts done in good faith.
2793. Assent of creditor necessary to modification of assignment.

2771. When debtor may execute assignment.—An insolvent debtor may in good faith execute an assignment of property in trust for the satisfaction of his creditors, in conformity to the provisions of this article; subject, however, to the provisions of this title relative to trusts and fraudulent transfers, and to the restrictions imposed by law upon assignments by special partnerships, or by other specific classes or persons.

CROSS-REFERENCE

Partner cannot assign, see section 1763 (1) of this title.

2772. Form of assignment.—Every such assignment shall contain a list of the names of the creditors of the assignor, and their places of residence and amounts of their respective demands, and the amounts and nature of any security therefor; and shall, subject to the other provisions of this article, be made to the marshal of the Canal Zone.

CROSS-REFERENCE

Form of assignment, see section 2780 of this title.

2773. Custody of property; creditors' meeting and notice thereof; election of assignee.—The marshal shall forthwith take possession of all the property so assigned to him, and keep the same till delivered by him, as hereinafter provided. When the assignment has been made, as hereinbefore provided, the marshal shall immediately, by mail, notify the creditors named in the assignment, at their places of residence as given therein, to meet at his office on a day and hour to be appointed by him, not less than eight or more than ten days from the date of the delivery of the assignment to him, for the purpose of electing one or more assignees, as they may determine, in the place and stead of the said marshal in the premises.

He shall also publish a notice of such meeting, and the purpose thereof, at least once before such meeting, in some newspaper of general circulation in the Canal Zone. The notice so to be mailed shall also contain a statement of the amount of the demand of the creditor, and the amount and nature of any security therefor, as set forth in the assignment; and if any creditor shall not find the amount of his claim to be correctly so stated, he may file with said marshal, at or before such meeting, a statement, under oath, of his demand, and such statement shall, for the purpose of voting as hereinafter provided, be accepted by said marshal as correct; and when no such statement is filed, the statement of amount as set forth in the assignment shall be accepted by the marshal as correct.

No creditor having a mortgage or pledge of property of the debtor, or lien thereon, for securing the payment of a debt owing to him from the debtor, shall be allowed to vote any part of his claim at such meeting of creditors, unless he shall have first conveyed, released, or delivered up his said security to said marshal for the benefit of all creditors of said assignor.

At such meeting the marshal shall preside, and a majority in amount of demands present or represented by proxy shall control all questions and decisions. The creditors may adjourn such meeting from time to time, and may vote on all questions either in person or by proxy signed and acknowledged before any officer authorized to take acknowledgments, and filed with the marshal.

At such a meeting, or any adjournment thereof, the creditors may elect one or more assignees from their own number, in the place and stead of the marshal, and the person or persons so elected shall afterwards be the assignee or assignees under the provisions of this article; and the marshal, by transfer in writing, acknowledged as required by section 2780 of this title, shall at once assign to such elected assignee or assignees, upon the trusts in this article provided, all the property so assigned to him, and deliver possession thereof.

All recitals in such assignment by said marshal of notices of such meeting, and the holding thereof, and of the due election of such assignee or assignees, shall be prima facie proof of the facts recited.

2774. Marshal's fees.—The marshal shall, before the delivery of such assignment, be paid the expenses incurred by him, and fees in such amount as would by law be collectible if the property assigned had been levied upon and safely kept under attachment.

2775. Powers and duties of elected assignee.—Thereupon, and after the record of such last-named assignment, as in this article provided, such elected assignee or assignees shall take, and hold, and dispose of all such property and its proceeds, upon the trusts and conditions and for the purposes in this article provided.

CROSS-REFERENCES

Assignee cannot act until bond and inventory filed, see section 2788 of this title.

Commissions and expenses of assignee, see section 2791 of this title.

2776. Insolvency, what.—A debtor is insolvent, within the meaning of this article, when he is unable to pay his debts from his own means as they become due.

CROSS-REFERENCE

Insolvency defined, see section 1055 of this title.

2777. Certain transfers not affected.—The provisions of this article do not prevent a person residing in any State or country from making there, in good faith, and without intent to evade the laws of the Canal Zone, a transfer of property situated within it; but such person cannot make a general assignment of property situated in the Canal Zone for the satisfaction of all his creditors, except as in this article provided; nor do the provisions of this article affect the power of a person, although insolvent, and whether residing within or without the Canal Zone, to transfer property in the Canal Zone, in good faith to a particular creditor, or creditors, or to some other person or persons in trust for such particular creditor or creditors for the purpose of paying or securing the whole or part of a debt owing to such creditor or creditors, whether in his or their own right or otherwise.

2778. What debts may be secured.—An assignment for the benefit of creditors may provide for any subsisting liability of the assignor which he might lawfully pay, whether absolute or contingent.

2779. Assignment when void.—An assignment for the benefit of creditors is void against any creditor of the assignor not assenting thereto, in the following cases:

First. If it give a preference to one debt or class of debts over another.

Second. If it tend to coerce any creditor to release or compromise his demand.

Third. If it provide for the payment of any claim known to the assignor to be false or fraudulent; or for the payment of more upon any claim than is known to be justly due from the assignor.

Fourth. If it reserve any interest in the assigned property, or in any part thereof, to the assignor, or for his benefit, before all his existing debts are paid.

Fifth. If it confer upon the assignee any power which, if exercised, might prevent or delay the immediate conversion of the assigned property to the purposes of the trust.

Sixth. If it exempt him from liability for neglect of duty or misconduct.

CROSS-REFERENCES

Preferences by special partnership, see section 1828 of this title.
Preferences to creditors, see section 2754 of this title.

2780. Assignment to be in writing.—An assignment for the benefit of creditors must be in writing, subscribed by the assignor, or by his agent thereto authorized in writing, and the transfer by the marshal must also be in writing, subscribed by the marshal in his official capacity. Both such assignment and such transfer must be acknowledged, or proved and certified, in the mode prescribed by chapter 22 of this title, and be recorded as required by section 2785 of this title.

CROSS-REFERENCES

Form of assignment, see section 2772 of this title.
Recording of assignment, see sections 2781 and 2785 of this title.

2781. Compliance with provisions of preceding section necessary to validity of assignment.—Unless the provisions of the next preceding section are complied with, an assignment for the benefit of creditors is void against every creditor of the assignor not assenting thereto.

CROSS-REFERENCE

Recording of assignments, see sections 2780 and 2785 of this title.

2782. Assignee takes, subject to rights of third parties.—An assignee for the benefit of creditors is not to be regarded as a purchaser for value, and has no greater rights than his assignor had, in respect to things in action transferred by the assignment.

2783. Inventory required.—Within twenty days after an assignment is made for the benefit of creditors, the assignor must make and file, in the manner prescribed by section 2785 of this title, a full and true inventory, showing:

1. All the creditors of the assignor;
2. The place of residence of each creditor, if known to the assignor, or if not known, that fact must be stated;
3. The sum owing to each creditor and the nature of each debt or liability, whether arising on written security, account, or otherwise;
4. The true consideration of the liability in each case, and the place where it arose;
5. Every existing judgment, mortgage, or other security for the payment of any debt or liability of the assignor;
6. All property of the assignor at the date of the assignment, which is exempt by law from execution; and
7. All of the assignor's property at the date of the assignment, of every kind, not so exempt, and the encumbrances existing thereon, and all vouchers and securities relating thereto, and the value of such property according to the best knowledge of the assignor.

2784. Affidavit of assignor to be filed with inventory.—An affidavit must be made by every assignor executing an assignment for the benefit of creditors, to be annexed to and filed with the inventory mentioned in section 2783 of this title, to the effect that the same is in all respects just and true according to the best of such assignor's knowledge and belief.

If the assignor neglects or refuses to make and file such inventory and affidavit within said twenty days, the assignment shall not, for that reason, be affected in any way, but in that event the assignee or assignees elected by the creditors shall within twenty days thereafter make and file in the office of the registrar of property, a verified inventory of all assets received by them; and such assignee or assignees may at any time, or from time to time, after the transfer to them by the marshal, by petition to the district court, cause the assignor, by order or citation to appear before said court, or a commissioner or referee to be appointed by it, at a time and place to be designated in the order or citation, to be examined touching the matters mentioned in section 2783, and any other matters relative to the assignment, and to have with him all books of account, vouchers, and papers relating to the assigned property; and such court may by its order require the surrender to such assignee or assignees of such books, vouchers, and papers to be by them retained until their trust is fully completed and performed.

2785. Recording assignment and filing inventory.—An assignment for the benefit of creditors must be recorded, and the inventory required by section 2783 of this title filed with the registrar of property.

CROSS-REFERENCE

Recording of assignment, see sections 2780 and 2781 of this title.

2786. Assignment, when void.—An assignment for the benefit of creditors is void against creditors of the assignor and against purchasers and encumbrancers in good faith and for value unless it is recorded as provided in this article, and unless either the inventory required by section 2783 of this title, or the inventory required of the assignee or assignees by section 2784 of this title is filed in the manner provided in this article and within the time designated.

2787. Bond of assignees.—No bond shall be given by the marshal, but he shall be liable on his official bond for the care and custody of the property while in his possession. Within forty days after date of the transfer by the marshal, the assignee must enter into a bond in such amount as may be fixed by the district judge, with sufficient sureties to be approved by such judge, and conditioned for the faithful discharge of the trust and the due accounting for all moneys received by the assignee, which bond must be filed in the same office with the inventory; and any assignee failing to comply with the provisions of this section may be removed by the above-named court on petition of the assignor or any creditor, and his successor appointed by such court.

2788. Conditions of disposal and conversion; publication of notice by assignee; dividends; rights of mortgagee.—Until a verified inventory has been made and filed, either by the assignor or assignee, as required by the provisions of this article, and the assignee has given the bond required by the next preceding section, such assignee has no authority to dispose of the property of the estate, or any part of it (except in the case of perishable property, which in his discretion he may dispose of at any time and receive the proceeds of sale thereof); nor has he power to convert the property, or the proceeds of any sale of perishable property, to the purposes of the trust.

Within ten days after the filing of his bond, the assignee must commence the publication (and such publication shall continue at least once a week for four weeks), in some newspaper of general circulation in the Canal Zone, of a notice to creditors of the assignor, stating the fact and date of the assignment, and requiring all persons having claims against the assignor to exhibit them, with the necessary vouchers, and verified by the oath of the creditor, to the assignee, at his place of residence or business, to be specified in the notice; and he shall also, within ten days after the first publication of said notice, mail a copy of such notice to each creditor whose name is given in the instrument of assignment, at the address therein given. After such notice is given, a copy thereof, with affidavit of due publication and mailing, must be filed with the registrar of property with whom the inventory has been filed, which affidavit shall be prima facie evidence of the facts stated therein.

At any time, or from time to time, after the expiration of thirty days from the first publication of said notice (provided the same shall also have been mailed as in this section provided), the assignee may, in his discretion, declare and pay dividends to the creditors whose claims have been presented and allowed. No dividend already declared shall be disturbed by reason of claims being subsequently presented and allowed; but the creditor presenting such claim shall be entitled to a dividend equal to the percent already declared and paid, before any further dividend is made: *Provided, however*, That there be assets sufficient for that purpose: *And provided*, That the failure to present such claim shall not have resulted from his own neglect, and he shall attach to such claim a statement, under oath, showing fully why the same was not before presented.

When a creditor has a mortgage or pledge of property of the debtor, or a lien thereon, for securing the payment of a debt owing to him from the debtor, and shall not have conveyed, released, or delivered up such security to the marshal, as provided for by section 2773 of this title, he shall be admitted as a creditor only for the balance of the debt after deducting the value of such mortgage, pledge, or lien, to be ascertained by agreement between him and the assignee, or by a sale thereof, to be made in such manner as the district court shall direct; or the creditor may release or convey his claim to the assignee upon such property, and be admitted to prove his whole debt.

If the value of the property exceeds the sum for which it is so held as security, the assignee may release to the creditor the debtor's right of redemption thereon on receiving such excess; or he may sell the property, subject to the claim of the creditor thereon; and in either case the assignee and creditor, respectively, shall execute all writings necessary or proper to consummate the transaction. If the property is not sold or released, and delivered up, the creditor shall not be allowed to prove any part of his debt.

2789. Accounting of assignee.—After six months from the date of an assignment for the benefit of creditors, the assignee may be required, on the petition of any creditor, to account before the district court.

2790. Property exempt.—Property exempt from execution and insurance upon the life of the assignor, do not pass to the assignee by a general assignment for the benefit of creditors unless the instrument specially mentions them and declares an intention that they should pass thereby.

CROSS REFERENCE

Property exempt from execution, see title 4, section 590.

2791. Commissions of assignees.—The elected assignee or assignees for the benefit of creditors shall be entitled to a reasonable commission on assignments, to be fixed by the court. Such assignee or assignees shall also be entitled to all necessary expenses in the management of their trust.

CROSS-REFERENCE

Commissions and expenses of marshal, see section 2774 of this title.

2792. Assignees protected for acts done in good faith.—An assignee for the benefit of creditors is not to be held liable for his acts, done in good faith in the execution of the trust, merely for the reason that the assignment is afterward adjudged void.

2793. Assent of creditor necessary to modification of assignment.—An assignment for the benefit of creditors which has been executed and recorded so as to transfer the property to the marshal, or a transfer by the marshal to the elected assignee or assignees which has been executed and recorded, cannot afterwards be modified or canceled by the parties without the consent of the assignor and of every creditor affected thereby.

CHAPTER 75.—NUISANCE

Art. Sec.
1. General principles 2801
2. Public nuisances 2811
3. Private nuisances 2821

ARTICLE 1.—GENERAL PRINCIPLES

Sec.
2801. Nuisance, what.
2802. Public nuisance.
2803. Private nuisance.
2804. What is not deemed a nuisance.
2805. Abatement does not preclude action.

Section 2801. Nuisance, what.—Anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway is a nuisance.

CROSS-REFERENCES

See also, title 5, sections 551 and 552.
Nuisances, what are, and remedies for, see title 4, section 651.

2802. Public nuisance.—A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

CROSS-REFERENCES

See also title 5, sections 551 and 552.
Abating public nuisance, see section 2815 of this title.
Public nuisance, see sections 2811 et seq., of this title.

2803. Private nuisance.—Every nuisance not included in the definition in the next preceding section is private.

CROSS-REFERENCE

Private nuisance, see section 2821 of this title.

2804. What is not deemed a nuisance.—Nothing which is done or maintained under the express authority of law can be deemed a nuisance.

2805. Abatement does not preclude action.—The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence.

ARTICLE 2.—PUBLIC NUISANCES

Sec.
2811. Lapse of time does not legalize.
2812. Remedies against public nuisance.
2813. Remedy regulated, how.
Sec.
2814. Remedies for public nuisance.
2815. How abated.

2811. Lapse of time does not legalize.—No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right.

Cross-Reference

Public nuisance, defined, see section 2802 of this title.

2812. Remedies against public nuisance.—The remedies against a public nuisance are—

1. Information;
2. A civil action;
3. Abatement.

2813. Remedy regulated, how.—The remedy by information is regulated by Title 5, The Criminal Code.

Cross-Reference

See title 5, sections 551 and 552.

2814. Remedies for public nuisance.—A private person may maintain an action for a public nuisance, if it is specially injurious to himself, but not otherwise.

2815. How abated.—A public nuisance may be abated by any public body or officer authorized thereto by law.

ARTICLE 3.—PRIVATE NUISANCES

2821. Remedies for private nuisance.—The remedy against a private nuisance is a civil action.

CHAPTER 76.—MAXIMS OF JURISPRUDENCE

Section 2831. The maxims of jurisprudence hereinafter set forth are intended not to qualify any of the foregoing provisions of this title, but to aid in their just application.

2832. When the reason of a rule ceases, so should the rule itself.

2833. Where the reason is the same, the rule should be the same.

2834. One must not change his purpose to the injury of another.

2835. Anyone may waive the advantage of a law intended solely for his benefit. But a law established for a public reason cannot be contravened by a private agreement.

2836. One must so use his own rights as not to infringe upon the rights of another.

2837. He who consents to an act is not wronged by it.

2838. Acquiescence in error takes away the right of objecting to it.

2839. No one can take advantage of his own wrong.

2840. He who has fraudulently dispossessed himself of a thing may be treated as if he still had possession.

2841. He who can and does not forbid that which is done on his behalf is deemed to have bidden it.

2842. No one should suffer by the act of another.

2843. He who takes the benefit must bear the burden.

2844. One who grants a thing is presumed to grant also whatever is essential to its use.

2845. For every wrong there is a remedy.

2846. Between those who are equally in the right or equally in the wrong, the law does not interpose.

2847. Between rights otherwise equal, the earliest is preferred.

2848. No man is responsible for that which no man can control.

2849. The law helps the vigilant before those who sleep on their rights.

2850. The law respects form less than substance.

2851. That which ought to have been done is to be regarded as done, in favor of him to whom, and against him from whom, performance is due.

2852. That which does not appear to exist is to be regarded as if it did not exist.

2853. The law never requires impossibilities.

2854. The law neither does nor requires idle acts.

2855. The law disregards trifles.

2856. Particular expressions qualify those which are general.

2857. Contemporaneous exposition is in general the best.

2858. The greater contains the less.

2859. Superfluity does not vitiate.

2860. That is certain which can be made certain.

2861. Time does not confirm a void act.

2862. The incident follows the principal, and not the principal the incident.

2863. An interpretation which gives effect is preferred to one which makes void.

2864. Interpretation must be reasonable.

2865. Where one of two innocent persons must suffer by the act of a third, he by whose negligence it happened, must be the sufferer.

TITLE 4.—THE CODE OF CIVIL PROCEDURE

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CHAPTER 1.—PRELIMINARY PROVISIONS

Sec.
1. Name of this title.
2. When this title takes effect.
3. Not retroactive.
4. Rule of construction of this title.
5. Holidays.
6. Computation of time.
7. Words and phrases.
8. Certain terms used in this title defined.
9. Division of judicial remedies.
10. Action defined.
11. Special proceedings defined.
12. Civil actions arise out of obligations or injuries.
13. Obligation defined.
14. Division of injuries.
15. Injuries to property.
16. Injuries to the person.
17. Civil action, by whom prosecuted.
18. Civil and criminal remedies not merged.

Section 1. Name of this title.—This title shall be known as the Code of Civil Procedure of the Canal Zone. (Feb. 27, 1933, ch. 127, 47 Stat. 908.)

NOTE.—The Code of Civil Procedure of the Canal Zone, which comprises title 4 of the Canal Zone Code, was derived from the Act of February 27, 1933, above cited. That act was entitled "An act to provide a new Code of Civil Procedure for the Canal Zone and to repeal the existing Code of Civil Procedure."

2. When this title takes effect.—The code embodied in this title shall be effective as of October 1, 1933.

3. Not retroactive.—No part of it is retroactive unless expressly so declared.

4. Rule of construction of this title.—The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this title. The title establishes the law of the Canal Zone respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed with a view to effect its objects and to promote justice.

CROSS-REFERENCE

Rules for construction of statutes, see sections 1876, 1877, and 1884 of this title.

5. Holidays.—Holidays within the meaning of this title are every Sunday and such other days as are enumerated as holidays in section 7 of title 3.

6. Computation of time.—The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.

7. Words and phrases.—Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined in the section next following, are to be construed according to such peculiar and appropriate meaning or definition.

Cross-References

Construction of technical words, see section 1879 of this title; and title 3, section 911.

Words to be understood in their usual sense, see title 3, section 910.

Written words control printed, see section 1880 of this title.

Words of a writing construed in their general acceptation, see section 1879 of this title.

8. Certain terms used in this title defined.—Words used in this title in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as a natural person; writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term "testify", and every written one in the term "depose"; signature or subscription includes mark, when the person cannot write, his name being written near it by a person who writes his own name as a witness: *Provided*, That when a signature is by mark it must, in order that the same may be acknowledged or may serve as the signature to any sworn statement, be witnessed by two persons who must subscribe their own names as witnesses thereto.

The following words have in this title the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "property" includes both real and personal property;

2. The words "real property" are coextensive with lands, tenements, and hereditaments;

3. The words "personal property" include money, goods, chattels, things in action, and evidences of debt;

4. The word "month" means a calendar month, unless otherwise expressed;

5. The word "will" includes codicil;

6. The word "writ" signifies an order or precept in writing, issued in the name of the people, or of a court or judicial officer; and the word "process" a writ or summons issued in the course of judicial proceedings;

7. The word "State", when applied to the different parts of the United States, includes the District of Columbia and the Territories;

and the words "United States" may include the District and Territories;

8. The word "affinity", when applied to the marriage relation, signifies the connection existing in consequence of marriage between each of the married persons and the blood relatives of the other.

CROSS-REFERENCE

Words and phrases defined, see also title 3, section 12.

9. Division of judicial remedies.—Judicial remedies are divided into two classes—

1. Actions; and
2. Special proceedings.

10. Action defined.—An action is an ordinary proceeding in a court of justice by which one party prosecutes another for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense.

11. Special proceeding defined.—Every other remedy is a special proceeding.

CROSS-REFERENCE

Special proceedings of a civil nature, see sections 1031 et seq., of this title.

12. Civil actions arise out of obligations or injuries.—A civil action arises out of—

1. An obligation;
2. An injury.

13. Obligation defined.—An obligation is a legal duty, by which one person is bound to do or not to do a certain thing, and arises from—

1. Contract; or
2. Operation of law.

CROSS-REFERENCE

Obligation, what, see title 3, sections 661 and 662.

14. Division of injuries.—An injury is of two kinds—

1. To the person; and
2. To property.

15. Injuries to property.—An injury to property consists in depriving its owner of the benefit of it, which is done by taking, withholding, deteriorating, or destroying it.

16. Injuries to the person.—Every other injury is an injury to the person.

17. Civil action, by whom prosecuted.—A civil action is prosecuted by one party against another for the enforcement or protection of a right, or the redress or prevention of a wrong.

CROSS-REFERENCE

Forms of action, see section 71 of this title.

18. Civil and criminal remedies not merged.—When the violation of a right admits of both a civil and criminal remedy, the right to prosecute the one is not merged in the other.

CHAPTER 2.—GENERAL PROVISIONS RESPECTING COURTS OF JUSTICE

Sec.
21. Sittings, public.
22. Sittings, when private.
23. Powers respecting conduct of proceedings.
24. District court to have seal.
25. Same; to what documents affixed.
26. District court dockets.
27. Powers of district judge.
28. Disqualification of judges.
29. No judge or magistrate to have partner practicing law.
30. Powers of district judge.
31. Powers of judicial officers as to conduct of proceedings.
32. To punish for contempt.
33. To take acknowledgments and affidavits.
34. Proceedings to be in English language.
35. Means to carry jurisdiction into effect.
36. Reports prima facie correct statements.

Section 21. Sittings, public.—The sittings of every court of justice shall be public, except as provided in the section next following.

22. Sittings, when private.—In an action for divorce, criminal conversation, seduction, or breach of promise of marriage, the court may direct the trial of any issue of fact joined therein to be private, and may exclude all persons except the officers of the court, the parties, their witnesses, and counsel: *Provided*, That in any cause the court may, in the exercise of a sound discretion, during the examination of a witness, exclude any or all other witnesses in the cause.

Cross Reference

Exclusion of witnesses, see section 2112 of this title.

23. Powers respecting conduct of proceedings.—Every court shall have power—

1. To preserve and enforce order in its immediate presence;
2. To enforce order in the proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority;
3. To provide for the orderly conduct of proceedings before it, or its officers;
4. To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein;
5. To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto;
6. To compel the attendance of persons to testify in an action or proceeding pending therein, in the cases and manner provided in this title;
7. To administer oaths in an action or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers and duties;

8. To amend and control its process and orders so as to make them conformable to law and justice.

CROSS-REFERENCES

Affirmation in place of oath, see section 2175 of this title.
Administration of oaths, see sections 2171 et seq., of this title.
Attendance of witnesses, see sections 2041 et seq., of this title.
Contempt, see sections 1161 et seq., of this title.
Enlarging time to plead, see section 275 of this title.
Relieving from judgment, see section 275 of this title.

24. **District court to have seal.**—The district court shall have a seal, which shall be kept by the clerk of the court.

25. **Same; to what documents affixed.**—The seal of the district court need not be affixed to any proceeding therein or document, except:

1. To a writ;
2. To the certificate of probate of a will or of the appointment of an executor, administrator, or guardian;
3. To the authentication of a copy of a record or other proceeding of the court, or of an officer thereof, or of a copy of a document on file in the office of the clerk.

26. **District court dockets.**—In addition to such dockets as may be specially provided for herein, the clerk of the district court, under the direction of the judge, must cause to be prepared, and shall keep, such other dockets as may be required for the purposes of said court.

27. **Powers of district judge.**—The district judge may, at chambers, grant all orders and writs which are usually granted in the first instance upon an ex parte application, and may, at chambers, hear and dispose of such orders and writs; and may also, at chambers, appoint appraisers, receive inventories and accounts to be filed, suspend the powers of executors, administrators, or guardians in the cases allowed by law, grant special letters of administration or guardianship, approve claims and bonds, and direct the issuance from the court of all writs and process necessary in the exercise of their powers in matters of probate.

CROSS-REFERENCES

Power of judge out of court, see section 30 of this title; and title 7, sections 31, 32.

Powers in probate matters, see section 1218 of this title.

28. **Disqualification of judges.**—No judge or magistrate shall sit or act as such in any action or proceeding:

1. To which he is a party or in which he is interested;
2. When he is related to either party, or to an officer of a corporation, which is a party, or to an attorney, counsel, or agent of either party, by consanguinity or affinity within the third degree computed according to the rules of law;
3. When, in the action or proceeding, or in any previous action or proceeding involving any of the same issues, he has been attorney or counsel for any party; or when he has given advice to any party upon any matter involved in the action or proceeding; or when he

has been retained or employed as attorney or counsel for any party within two years prior to the commencement of the action of proceeding;

4. When it appears from the affidavit or affidavits on file that either party cannot have a fair and impartial trial before the district judge, about to try the case, by reason of the prejudice or bias of such judge. The affidavit or affidavits alleging the disqualification of the judge must be filed and served upon the adverse party or the attorney for such party at least one day before the day set for trial of such action or proceeding; provided, counteraffidavits may be filed at least one day thereafter, or such further time as the court may extend the time for filing such counteraffidavits, not exceeding five days, and for this purpose the court may continue the trial.

CROSS-REFERENCES

Disqualification in probate or guardianship proceeding, see section 1401 of this title.

Consanguinity and affinity, see title 3, sections 637 et seq.

29. No judge or magistrate to have partner practicing law.—No judge or magistrate shall have a partner acting as attorney or counsel in any court of the Canal Zone.

30. Powers of district judge.—The district judge may exercise out of court all the powers expressly conferred upon the judge, as contradistinguished from the court.

CROSS-REFERENCES

Powers in matters of probate, see section 1218 of this title.

Powers of judge at chambers, see section 27 of this title.

Power to administer oaths, see sections 23, 31, 33, and 2171 of this title.

31. Powers of judicial officers as to conduct of proceedings.—Every judicial officer shall have power:

1. To preserve and enforce order in his immediate presence, and in proceedings before him, when he is engaged in the performance of official duty;

2. To compel obedience to his lawful orders as provided in this title;

3. To compel the attendance of persons to testify in a proceeding before him, in the cases and manner provided in this title;

4. To administer oaths to persons in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and duties.

CROSS-REFERENCES

See also section 23 of this title.

Power to administer oaths, see sections 23, 33, and 2171 of this title.

32. To punish for contempt.—For the effectual exercise of the powers conferred by the next preceding section, a judicial officer may punish for contempt in the cases provided in this title.

CROSS-REFERENCE

Contempt, generally, see sections 1161 et seq., of this title.

33. To take acknowledgments and affidavits.—The district judge and the magistrates shall have power to take and certify:

1. The proof and acknowledgment of a conveyance of real property or of any other written instrument;
2. The acknowledgment of satisfaction of a judgment of any court;
3. An affidavit or deposition to be used in the Canal Zone.

Cross-References

Proof and acknowledgment of instruments, see title 3, sections 491 et seq.
Who may take affidavits, see section 2074 of this title.

34. Proceedings to be in English language.—Every written proceeding in a court of justice in the Canal Zone shall be in the English language, and judicial proceedings shall be conducted and preserved in no other.

35. Means to carry jurisdiction into effect.—When jurisdiction is, by this title, or by any other statute, conferred on a court or judicial officer, all the means necessary to carry it into effect are also given; and in the exercise of this jurisdiction, if the course of proceeding be not specifically pointed out by this title or the statute, any suitable process or mode of proceeding may be adopted which may appear most conformable to the spirit of this title.

36. Reports prima facie correct statements.—The report of the official reporter, or official reporter pro tempore, of the district court, duly appointed and sworn, when transcribed and certified as being a correct transcript of the testimony and proceedings in the case, is prima facie evidence of such testimony and proceedings.

CHAPTER 3.—ATTORNEYS AND COUNSELORS AT LAW

Sec.
41. Admission to practice.
42. Certificate of admission.
43. Oath.
44. Roll of attorneys.
45. Attorneys on bonds.
46. Who may conduct litigation.
47. Duties.
48. Authority.
49. Change of attorney.
50. Notice of change.
51. Death or removal of attorney.
52. Causes for which court may remove attorney.
53. Proceedings for removal or suspension.

Sec.
54. Accusation.
55. Verification of accusation.
56. Citation of accused by publication.
57. Appearance.
58. Objections to accusation.
59. Demurrer.
60. Answer.
61. Trial.
62. Reference to take depositions.
63. Judgment.
64. Disqualified attorney as plaintiff.
65. Compensation to be reasonable; contract for services.

Section 41. Admission to practice.—1. Any person of good moral character who has been admitted to practice in the Supreme Court of the United States, or in the highest court of the District of Columbia, or in the highest court of any State or Territory, may be admitted, on motion in open court, to practice as an attorney of the district court.

2. Any person of good moral character who has been admitted to practice in the highest court of any foreign country may be admitted to practice as an attorney of the district court: *Provided, however,* That the requirements for practice in such foreign countries be a preliminary education, in addition to grade and high school educa-

tion, of at least a two-year law course in an approved law school: *Provided further*, That such person shall have practiced law in the courts of his own or of a foreign country for a period of three years.

3. Every applicant for admission shall file his application with the clerk, produce his license and satisfactory evidence that it has not been revoked, file with the clerk statements of at least three reputable persons, one of whom must be a member in good standing of the bar of the district court, attesting to the good moral character of the applicant; and, if admission is sought under subdivision 2 of this section, every applicant shall, in addition, furnish satisfactory evidence as to the requirements for practice in such foreign country and the applicant's practice for the requisite period. The motion for admission must be made in open court by a member in good standing of the bar of the district court. Such person shall upon the filing of his application pay to the clerk a fee of $15, which fee shall be accounted for by the clerk as miscellaneous receipts.

4. Any person of good moral character who has attained the age of twenty-one years may be admitted to the practice of law in the courts of the Canal Zone by the judge of the district court thereof upon giving satisfactory evidence that he has a general education equivalent to graduation from a high school of the Canal Zone, has studied law under proper instruction for at least three years, and has passed an examination in the law to be prescribed and conducted by the judge of the district court or by a committee of the bar appointed by him for that purpose. The judge of the district court is empowered to make rules to establish the qualifications of the candidates.

42. Certificate of admission.—Upon admission of an applicant to the bar, the district court shall direct an order to be entered to that effect upon its records, and that a certificate of such admission be given to him by the clerk of the court, which certificate shall be his license.

43. Oath.—Before receiving a certificate the appliant shall take and subscribe in court the following oath:

"I, —— recognize and accept the supreme authority of the United States of America, in the Canal Zone, and I do swear that I will obey the existing laws which rule in the Canal Zone, as well as the legal orders and decrees of the duly constituted authorities therein; that I impose upon myself this voluntary obligation without any mental reservation or purpose of evasion.

"I do solemnly swear that I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or willingly promote or sue any false, groundless, or unlawful suit, nor give aid nor consent to the same; I will delay no man for money or malice, but will conduct myself in the office of a lawyer within the courts according to the best of my knowledge and discretion, with all good fidelity as well to the courts as to my clients. So help me God."

44. Roll of attorneys.—The clerk of the district court shall keep a roll of attorneys admitted to practice, which roll must be signed by the person admitted before he receives his license.

45. Attorneys on bonds.—Attorneys will not be accepted as sureties upon bonds or recognizances required to be filed in court.

46. Who may conduct litigation.—A person may conduct his litigation personally or by the aid of a lawyer, in either the district or magistrates' courts.

47. Duties.—It is the duty of an attorney and counselor:

1. To support the laws of the Canal Zone and the applicable laws of the United States;
2. To maintain the respect due to the courts of justice and judicial officers;
3. To counsel or maintain such actions, proceedings, or defenses only as appear to him legal or just, except the defense of a person charged with a public offense;
4. To employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth, and never seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law;
5. To maintain inviolate the confidence, and at every peril to himself, to preserve the secrets of his client;
6. To abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged;
7. Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest;
8. Never to reject, for any consideration personal to himself, the cause of the defenseless or the oppressed.

CROSS-REFERENCES

Privileged communications, see section 1904 of this title.
Misconduct in practice of law, see title 5, sections 221 to 223.

48. Authority.—An attorney shall have authority:

1. To bind his client in any of the steps of an action or proceeding by his agreement filed with the clerk, or entered upon the minutes of the court, and not otherwise;
2. To receive money claimed by his client in an action or proceeding during the pendency thereof, or after judgment, unless a revocation of his authority is filed, and upon the payment thereof, and not otherwise, to discharge the claim or acknowledge satisfaction of the judgment.

CROSS-REFERENCES

Instructing marshal what to attach, see section 358 of this title.
Requiring marshal to take property in replevin, see section 323 of this title.
Right of attorney to subscribe and verify pleading, see section 241 of this title.
Satisfaction of judgment by attorney, see section 550 of this title.

49. Change of attorney.—The attorney in an action or special proceeding may be changed at any time before or after judgment or final determination, as follows:

1. Upon consent of both client and attorney, filed with the clerk, or entered upon the minutes;

2. Upon the order of the court, upon the application of either client or attorney, after notice from one to the other.

50. Notice of change.—When an attorney is changed, as provided in the next preceding section, written notice of the change and of the substitution of a new attorney, or of the appearance of the party in person, must be given to the adverse party. Until then he must recognize the former attorney.

51. Death or removal of attorney.—When an attorney dies, or is removed or suspended, or ceases to act as such, a party to an action, for whom he was acting as attorney, must, before any further proceedings are had against him, be required by the adverse party, by written notice, to appoint another attorney, or to appear in person.

52. Causes for which court may remove attorney.—An attorney may be removed or suspended by the district court, for any of the following causes, arising after his admission to practice:

1. His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence;
2. Willful disobedience or violation of an order of the district court requiring him to do or forbear an act connected with, or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney and counselor;
3. Corruptly or willfully and without authority appearing as attorney for a party to an action or proceeding;
4. Lending his name to be used as attorney and counselor by another person who is not an attorney and counselor;
5. For the commission of any act involving moral turpitude, dishonesty, or corruption, whether the same be committed in the course of his relations as an attorney or counselor at law, or otherwise, and whether the same shall constitute a felony or misdemeanor or not; and in the event that such act shall constitute a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disbarment or suspension from practice therefor.

CROSS-REFERENCE

Right of attorney to make defense, see sections 56 et seq., of this title.

53. Proceedings for removal or suspension.—The proceedings to remove or suspend an attorney and counselor, under subdivision 1 of the next preceding section, must be taken by the district court on the receipt of a certified copy of the record of conviction. The proceedings under any of the other subdivisions of that section may be taken by the court for the matters within its knowledge, or may be taken upon the information of another.

54. Accusation.—If the proceedings are upon the information of another, the accusation must be in writing.

55. Verification of accusation.—The accusation must state the matters charged, and be verified by the oath of some person, to the effect that the charges therein contained are true, which verification may be made upon information and belief when the accusation is presented by an organized bar association.

56. Citation of accused by publication.—Upon receiving the accusation, the district court shall make an order requiring the accused to appear and answer it at a specified time, and shall cause a copy of the order and of the accusation to be served upon the accused at least five days before the day appointed in the order. If it shall appear by affidavit to the satisfaction of the court or judge that the accused resides out of the Canal Zone; or has departed from the Canal Zone; or cannot, after due diligence, be found within the Canal Zone; or conceals himself to avoid the service of the order to show cause, the court or judge may direct the service of a citation to the accused, requiring him to appear and answer the accusation. to be made by publication in a newspaper of general circulation in the Canal Zone for thirty days. Such citation must be directed to the accused, recite the date of the filing of the accusation, the name of the accuser, and the general nature of the charges against him, and require him to appear and answer the accusation at a specified time. On proof of the publication of the citation as herein required the court shall have jurisdiction to proceed to hear the accusation and render judgment with like effect as if an order to show cause and a copy of the accusation had been personally served on the accused.

57. Appearance.—The accused must appear at the time appointed in the order, and answer the accusation, unless, for sufficient cause, the court assign another day for that purpose. If he do not appear, the court may proceed and determine the accusation in his absence.

58. Objections to accusation.—The accused may answer to the accusation either by objecting to its sufficiency or denying it.

59. Demurrer.—If he objects to the sufficiency of the accusation, the objection must be in writing, but need not be in any specific form, it being sufficient if it presents intelligibly the grounds of the objection. If he deny the accusation, the denial may be oral and without oath, and must be entered upon the minutes.

60. Answer.—If an objection to the sufficiency of the accusation be not sustained, the accused must answer within such time as may be designated by the court.

61. Trial.—If the accused plead guilty, or refuse to answer the accusation, the court shall proceed to judgment of removal or suspension. If he deny the matters charged, the court shall, at such time as it may appoint, proceed to try the accusation.

62. Reference to take depositions.—The court may, in its discretion, order a reference to a committee to take depositions in the matter.

63. Judgment.—Upon the receipt of a certified copy of the record of conviction of an attorney of a crime involving moral turpitude, the district court must suspend the attorney until judgment in the case has become final. When a judgment of conviction in such case has become final the court shall order the attorney permanently disbarred. When the attorney has been found guilty of the charges made in proceedings not based upon a record of conviction, judgment shall be rendered disbarring the attorney either permanently or for a limited time, according to the gravity of the offense charged. During such suspension or disbarment the attorney shall be precluded from practicing as an attorney at law or as an attorney or agent of another in and before all courts, commissions, and tribunals in the Canal Zone, and from practicing as attorney or counselor at law in any manner and from holding himself out to the public as an attorney or counselor at law. When permanently disbarred his name shall be stricken from the roll of attorneys and counselors.

64. Disqualified attorney as plaintiff.—No person who has been an attorney and counselor shall, while a judgment of disbarment or suspension is in force, appear on his own behalf as plaintiff in the prosecution of any action where the subject of said action has been assigned to him subsequent to the entry of the judgment of disbarment or suspension.

65. Compensation to be reasonable; contract for services.—An attorney shall be entitled to have and recover from his client no more than a reasonable compensation for the services rendered, having in view the importance of the subject matter of the controversy, the extent of the services rendered, and the professional standing of the attorney. But in such cases the court shall not be bound by the opinion of attorneys as expert witnesses as to the proper compensation, but may disregard such testimony and base its conclusion on its own professional knowledge. A written contract for services shall control the amount of recovery if found by the court not to be unconscionable or unreasonable.

CHAPTER 4.—FORM OF CIVIL ACTIONS

Sec.
71. One form of civil action only.
72. Parties to actions, how designated.
73. Special issues not made by pleadings, how tried.

Section 71. One form of civil action only.—There is in the Canal Zone but one form of civil action for the enforcement or protection of private rights and the redress or prevention of private wrongs.

Cross-References

Action is commenced by filing complaint, see section 161 of this title.

Law and equity jurisdiction need not be separately exercised, see title 7, section 24.

72. Parties to actions, how designated.—In such action the party complaining is known as the plaintiff, and the adverse party as the defendant.

73. Special issues not made by pleadings, how tried.—A question of fact not put in issue by the pleadings may be tried by the district court or a jury therein, upon an order for the trial, stating distinctly and plainly the question of fact to be tried; and such order is the only authority necessary for a trial.

Cross-Reference

Issues, by whom triable, see sections 434 and 435 of this title.

CHAPTER 5.—TIME OF COMMENCING CIVIL ACTIONS

Art. Sec.
1. Time of commencing actions in general 81
2. General provisions as to time of commencing actions 101

ARTICLE 1.—TIME OF COMMENCING ACTIONS IN GENERAL

Sec.
81. Commencement of civil actions.
82. Periods of limitation prescribed.
83. Within five years.
84. Within four years.
85. Within three years.
86. Within two years.
87. Within one year.
88. Actions for relief not hereinbefore provided for.
89. Where cause of action accrues on mutual account.
90. No limitation to certain actions; not applicable to insolvent banks, etc.

Section 81. Commencement of civil actions.—Civil actions, without exception, can only be commenced within the periods prescribed in this chapter, after the cause of action shall have accrued, unless where, in special cases, a different limitation is prescribed by statute.

CROSS-REFERENCE

Actions for wrongful death must be brought within one year, see section 131 of this title.

82. Periods of limitation prescribed.—The periods prescribed for the commencement of actions are as follows:

83. Within five years.—Within five years:

1. An action upon a judgment or decree of any court of the United States or of any State within the United States.

2. An action for mesne profits of real property.

CROSS-REFERENCES

Claim to escheated estate, see section 1184 of this title.
Foreign statutes of limitation, see section 111 of this title.

84. Within four years.—Within four years:

1. An action upon any contract, obligation or liability founded upon an instrument in writing.

2. An action to recover (1) upon a book account whether consisting of one or more entries; (2) upon an account stated; (3) a balance due upon a mutual, open and current account: *Provided*, *however*, That where an account stated is based upon an account of one item, the time shall begin to run from the date of said item, and where an account stated is based upon an account of more than one item, the time shall begin to run from the date of the last item.

CROSS-REFERENCES

Action upon mutual, open and current account, see section 89 of this title.
Four-year limitation in absence of other provision, see section 88 of this title.

85. Within three years.—Within three years:

1. An action upon a liability created by statute, other than a penalty or forfeiture.

2. An action for trespass upon or injury to real property.

3. An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property.

4. An action for relief on the ground of fraud or mistake. The cause of action in such case not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

CROSS-REFERENCES

Statutory penalty, see section 87 of this title.
Action upon guardian's bond, see sections 1816 and 1817 of this title.

86. Within two years.—Within two years:

1. An action upon a contract, obligation, or liability not founded upon an instrument of writing, other than that mentioned in subdivision 2 of section 84 of this title; or an action founded upon a contract, obligation, or liability, evidenced by a certificate, or abstract or guaranty of title of real property, or by a policy of title insurance: *Provided*, That the cause of action upon a contract, obligation, or liability, evidenced by a certificate, or abstract or guaranty of title of real property or policy of title insurance shall not be deemed to have accrued until the discovery of the loss or damage suffered by the aggrieved party thereunder.

2. An action against a marshal, coroner, or constable upon a liability incurred by the doing of an act in his official capacity and in virtue of his office, or by the omission of an official duty including the nonpayment of money collected upon an execution. But this subdivision does not apply to an action for an escape.

CROSS-REFERENCE

Mutual account, see sections 89 of this title.

87. Within one year.—Within one year:

1. An action upon a statute for a penalty or forfeiture, when the action is given to an individual, or to an individual and the Government, except when the statute imposing it prescribes a different limitation.

2. An action upon a statute, or upon an undertaking in a criminal action, for a forfeiture or penalty to the Government of the Canal Zone.

3. An action for libel, slander, assault, battery, false imprisonment, seduction, or for injury to or for the death of one caused by the wrongful act or neglect of another, or by a depositor against a bank for the payment of a forged or raised check.

4. An action against the marshal or other officer for the escape of a prisoner arrested or imprisoned on civil process.

CROSS-REFERENCE

Provision where person entitled dies before limitation expires, see sections 104 and 106 of this title.

88. Actions for relief not hereinbefore provided for.—An action for relief not hereinbefore provided for must be commenced within four years after the cause of action shall have accrued.

CROSS-REFERENCES

Actions include special proceedings, see section 113 of this title.
Appeal, after reversal on, see section 106 of this title.

Bank deposits, no limitation, see section 90 of this title.

Decedent's representatives, actions by or against, see section 104 of this title.

Estates of decedents, action on rejected claim, see section 1479 of this title.

Lien, extinguishment of by limitation, see title 3, section 2223.

Nuisance, time does not legalize, see title 3, section 2811.

Nuncupative will, proof of, see title 3, section 537.

89. Where cause of action accrues on mutual account.—In an action brought to recover a balance due upon a mutual, open, and current account, where there have been reciprocal demands between the parties, the cause of action is deemed to have accrued from the time of the last item proved in the account on either side.

CROSS-REFERENCE

Action upon mutual, open and current account, see section 84 of this title.

90. No limitation to certain actions; not applicable to insolvent banks, etc.—To actions brought to recover money or other property deposited with any bank, banker, trust company, building and loan association, or savings and loan society there is no limitation.

This section shall not apply to banks, bankers, trust companies, building and loan associations, and savings and loan societies which have become insolvent and are in process of liquidation and in such cases the statute of limitations shall be deemed to have commenced to run from the beginning of the process of liquidation: *Provided, however*, That nothing herein contained shall be construed so as to relieve any stockholder of any banking corporation or trust company from stockholder's liability as shall, at any time, be provided by law.

ARTICLE 2.—GENERAL PROVISIONS AS TO TIME OF COMMENCING ACTIONS

Sec.
101. When an action is commenced.
102. Exception, where defendant is out of Canal Zone.
103. Exceptions, as to persons under disabilities.
104. Provision where person entitled dies before limitation expires.
105. In suits by aliens, time of war to be deducted.
106. Provision where judgment has been reversed.
107. Provision where action is stayed by injunction.
Sec.
108. Disability must exist when right of action accrued.
109. When two or more disabilities exist, etc.
110. Acknowledgment or new promise must be in writing.
111. Limitation laws of States or foreign countries, effect of.
112. Existing causes of action not affected.
113. "Action" includes a special proceeding.

101. When an action is commenced.—An action is commenced, within the meaning of this chapter, when the complaint is filed.

CROSS-REFERENCE

Action is commenced by filing complaint, see section 161 of this title.

102. Exception, where defendant is out of Canal Zone.—If, when the cause of action accrues against a person, he is out of the Canal Zone, the action may be commenced within the term herein limited, after his return to the Zone, and if, after the cause of action accrues, he departs from the Zone, the time of his absence is not part of the time limited for the commencement of the action.

103. Exception, as to persons under disabilities.—If a person ntitled to bring an action, mentioned in sections 81 to 90 of this itle, be, at the time the cause of action accrued, either:

1. Under the age of majority; or
2. Insane; or
3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than for life; or
4. A married woman, and her husband be a necessary party with her in commencing such action;

The time of such disability is not a part of the time limited for the commencement of the action.

Cross-Reference

Disability affecting right to sue on guardian's bond, see sections 1816 and 817 of this title.

104. Provision where person entitled dies before limitation expires.—If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced by his representatives, after the expiration of that time, and within six months from his death. If a person against whom an action may be brought die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced against his representatives, after the expiration of that time, and within one year after the issuing of letters testamentary or of administration.

Cross-References

Death pending action, see section 106 of this title.
Substitution of parties, see section 141 of this title.
Survival of actions, see sections 141, 1522 and 1524 of this title.
Action includes special proceeding, see section 113 of this title.

105. In suits by aliens, time of war to be deducted.—When a person is an alien subject, or citizen of a country at war with the United States, the time of the continuance of the war is not part of the period limited for the commencement of the action.

106. Provision where judgment has been reversed.—If an action is commenced within the time prescribed therefor, and a judgment therein for the plaintiff be reversed on appeal, the plaintiff, or if he die and the cause of action survive, his representatives, may commence a new action within one year after the reversal.

107. Provision where action is stayed by injunction.—When the commencement of an action is stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action.

108. Disability must exist when right of action accrued.—No person can avail himself of a disability, unless it existed when his right of action accrued.

109. When two or more disabilities exist, etc.—When two or more disabilities coexist at the time the right of action accrues, the limitation does not attach until they are removed.

110. Acknowledgment or new promise must be in writing.—No acknowledgment or promise is sufficient evidence of a new or continuing contract, by which to take the case out of the operation of this chapter, unless the same is contained in some writing, signed by the party to be charged thereby.

Cross-Reference

Partner in liquidation cannot revive debt, see title 3, section 1805.

111. Limitation laws of States or foreign countries, effect of.—When a cause of action has arisen in a State of the United States, or in a foreign country, and by the laws thereof an action thereon cannot there be maintained against a person by reason of the lapse of time, an action thereon shall not be maintained against him in the Canal Zone, except in favor of one who has been a resident of the Zone, and who has held the cause of action from the time it accrued.

112. Existing causes of action not affected.—This chapter does not extend to actions already commenced, nor to cases where the time prescribed in any existing statute for acquiring a right or barring a remedy has fully run, but the laws now in force are applicable to such actions and cases, and are repealed subject to the provisions of this section.

113. "Action" includes a special proceeding.—The word "action" as used in this chapter is to be construed, whenever it is necessary so to do, as including a special proceeding of a civil nature.

CHAPTER 6.—PARTIES TO CIVIL ACTIONS

Sec.
121. Civil actions or special proceedings between nonresidents.
122. Action to be in name of party in interest.
123. Assignment of thing in action not to prejudice defense.
124. Executor, trustee, etc., may sue without joining the persons beneficially interested.
125. Married women as parties to actions.
126. Wife may defend, when.
127. Appearance of infant, etc., by guardian; may compromise.
128. Guardian, how appointed.
129. Unmarried female may sue for her own seduction.
130. Fathers, etc., may sue for seduction of daughter, etc.
131. Actions for wrongful death.
132. Who may be joined as plaintiffs.
133. Who may be joined as defendants.
134. Same.
135. Order preventing embarrassment.
136. Doubt as to defendant liable.

Sec.
137. Parties defendant in an action to determine conflicting claims to real property.
138. Parties in interest, when to be joined; when one or more may sue or defend for the whole.
139. Plaintiff may sue in one action the different parties to commercial paper or insurance policies.
140. Tenants in common, etc., may sever in bringing or defending actions.
141. Action, when not to abate by death, marriage, or other disability; proceedings in such case.
142. Another person may be substituted for the defendant; conflicting claims, how made.
143. Intervention, when it takes place, and how made.
144. Associates may be sued by name of association.
145. Court, when to decide controversy or to order other parties to be brought in.

Section 121. Civil actions or special proceedings between nonresidents.—No civil action or special proceedings shall be brought or proceeded with in the courts of the Canal Zone, in any case in which both of the parties, plaintiff and defendant, are alien nonresidents of the Canal Zone, and the cause of action is one which arose without the territorial limits of the Canal Zone, and the party proceeded against has no property within said territorial limits, subject to the jurisdiction of the Canal Zone courts.

Neither shall any civil action or special proceeding be brought or proceeded with in the courts of the Canal Zone when both parties, plaintiff and defendant, though citizens of the United States, are found transiently within the limits of the Canal Zone, unless the cause of action is one arising within the said territorial limits, or the party proceeded against has property within the said limits, subject to the jurisdiction of the Canal Zone courts.

This section shall not be construed to exclude from the jurisdiction of the Canal Zone courts cases between parties who have an official or business residence within the territorial limits of the Canal Zone Government, or who reside therein for the purpose of any occupation or employment, notwithstanding that they may not have acquired a permanent residence within said territorial limits.

122. Action to be in name of party in interest.—Every action must be prosecuted in the name of the real party in interest.

CROSS-REFERENCES

Association, how may be sued, see section 144 of this title.

Executor or trustee may sue without joining beneficiary, see section 124 of this title.

Right to sue on contract made for one's benefit, see title 3, section 814.

Joinder of persons interested, see sections 132 and 138 of this title.

123. Assignment of thing in action not to prejudice defense.—In the case of an assignment of a thing in action, the action by the assignee is without prejudice to any set-off, or other defense existing at the time of, or before, notice of the assignment; but this section does not apply to a negotiable promissory note or bill of exchange, transferred in good faith, and upon good consideration, before maturity.

CROSS-REFERENCES

Assignment of chose in action, see title 3, section 372.

Assignment and survival of causes of action, see sections 1522 et seq., of this title.

Proceedings on transfer of interest pending action, see section 141 of this title.

Thing in action defined, see title 3, section 371.

124. Executor, trustee, etc., may sue without joining the persons beneficially interested.—An executor or administrator, or trustee of an express trust, or a person expressly authorized by statute, may sue without joining with him the persons for whose benefit the action is prosecuted. A person with whom, or in whose name, a contract is made for the benefit of another, is a trustee of an express trust, within the meaning of this section.

CROSS-REFERENCES

Actions by executors and administrators, see also sections 1440, 1521 to 1523, 1526 and 1529 of this title.

Contract for benefit of third person may be enforced, see title 3, section 814.

125. Married women as parties to actions.—A married woman may be sued without her husband being joined as a party, and may sue without her husband being joined as a party in all actions, including those for injury to her person, libel, slander, false imprisonment, or malicious prosecution, or for the recovery of her earnings.

CROSS-REFERENCE

Contracts of married women generally, see title 3, section 134.

126. Wife may defend, when.—If a husband and wife be sued together, the wife may defend for her own right, and if the husband neglect to defend, she may defend for his right also.

127. Appearance of infant, etc., by guardian; may compromise.—When an infant, or an insane or incompetent person is a party, he must appear either by his general guardian or by a guardian ad litem appointed by the court in which the action is pending, in each case. A guardian ad litem may be appointed in any case, when it is deemed by the court in which the action or proceeding is prosecuted, or by a judge thereof, expedient to represent the infant, insane, or incompetent person in the action or proceeding, notwithstanding he may have a general guardian and may have appeared by him. The general guardian or guardian ad litem so appearing for any infant, or insane or incompetent person in any suit shall have power to compromise the same and to agree to the judgment to be entered therein for or against his ward, subject to the approval of the court in which such suit is pending.

CROSS-REFERENCES

Rights and liabilities of minors and persons of unsound mind, see title 3, sections 25 et seq.

Guardian and ward, see sections 1721 et seq., of this title; and title 3, sections 201 et seq.

Appearance by guardian in magistrate's court, see section 695 of this title.

128. Guardian, how appointed.—When a guardian ad litem is appointed by the court, he must be appointed as follows:

1. When the infant is plaintiff, upon the application of the infant, if he be of the age of fourteen years, or if under that age, upon the application of a relative or friend of the infant.

2. When the infant is defendant, upon the application of the infant, if he be of the age of fourteen years and apply within ten days after the service of the summons, or if under that age, or if he neglect so to apply, then upon the application of a relative or friend of the infant, or of any other party to the action.

3. When an insane or incompetent person is a party to an action or proceeding, upon the application of a relative or friend of such insane or incompetent person, or of any other party to the action or proceeding.

CROSS-REFERENCES

Guardian at litem, see also section 695 of this title.

Guardian to conduct action by ward, see title 3, section 34.

Guardians, appointment of, see sections 1721 et seq., of this title.

129. Unmarried female may sue for her own seduction.—An unmarried female may prosecute, as plaintiff, an action for her own seduction, and may recover therein such damages, pecuniary or exemplary, as are assessed in her favor.

CROSS-REFERENCES

Exemplary damages, see title 3, section 2641.
Damages for seduction, see title 3, section 2665.
Trial for seduction may be private, see section 22 of this title.

130. Father, etc., may sue for seduction of daughter, etc.—A father, or, in case of his death or desertion of his family, the mother, may prosecute as plaintiff for the seduction of the daughter, and the guardian for the seduction of the ward, though the daughter or ward be not living with or in the service of the plaintiff at the time of the seduction or afterwards, and there be no loss of service.

CROSS-REFERENCES

Guardian ad litem, see sections 127 and 128 of this title.
Action may be private, see section 22 of this title.

131. Actions for wrongful death.—1. Whenever by any injury done or happening within the Canal Zone the death of a person shall be caused by wrongful act, neglect, or default, and the act, neglect, or default is such as would, if death had not ensued, have entitled the party injured (or, in the case of a married woman, have entitled her or her husband, either individually or jointly) to maintain an action and recover damages in respect thereof, the individual who or corporation, company, or association which would have been liable if death had not ensued shall be liable to an action for damages notwithstanding the death of the person injured, and even though the death shall have been caused under such circumstances as amount in law to a felony.

2. Every action under this section shall be brought by and in the name of the personal representatives and within one year after the death of such deceased person.

3. No action shall be maintained under this section if the person suffering injury and death, or any person for him, has recovered damages on account of such injury.

4. In an action under this section the court or jury shall award such damages as it shall deem to be a fair and just compensation assessed with reference to the pecuniary injury, resulting from such death, to the surviving spouse and the children of the deceased, and if there is neither a surviving spouse nor child, then to the parents of the deceased, and if there is no parent, then to the brothers and sisters and other blood relatives dependent upon the deceased for support.

5. Damages recovered in an action under this section shall be for the exclusive benefit of the surviving spouse and other persons enumerated in subdivision 4, and shall be distributed to them, in the order named in such subdivision, according to the laws in force in the Canal Zone applicable to the distribution of estates.

6. In no case shall recovery under this section exceed the sum of $10,000.

7. This section shall not be construed as authorizing a suit against the United States nor as modifying or repealing any other law.

(Dec. 29, 1926, ch. 19, sec. 7, 44 Stat. 927; Feb. 27, 1933, ch. 127, sec. 96, 47 Stat. 920.)

CROSS-REFERENCE

Death on high seas by wrongful act, see U.S. Code, title 46, sections 761 to 768 (appendix, p. 996).

132. Who may be joined as plaintiffs.—All persons having an interest in the subject of the action, and in obtaining the relief demanded, may be joined as plaintiffs, except when otherwise provided in this chapter.

CROSS-REFERENCES

Special partners, see title 3, section 1824.
Other parties, bringing in, see section 145 of this title.
Misjoinder and nonjoinder of plaintiffs, see section 211 of this title.
Necessary parties, see section 138 of this title.

133. Who may be joined as defendants.—Any person may be made a defendant who has or claims an interest in the controversy adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the question involved therein. And in an action to determine the title or right of possession to real property which, at the time of the commencement of the action, is in the possession of a tenant, the landlord may be joined as a party defendant.

CROSS-REFERENCES

Parties to foreclosure, see section 641 of this title.
Associates suing by common name, see section 144 of this title.
Executors, unqualified, need not be joined, see section 1527 of this title.
Fresh parties, bringing in, see section 145 of this title.
Service on one defendant out of several, effect of, see section 167 of this title.

134. Same.—All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative; and judgments may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities.

135. Order preventing embarrassment.—It shall not be necessary that each defendant shall be interested as to all relief prayed for, or as to every cause of action included in any proceeding against him; but the court may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest.

136. Doubt as to defendant liable.—Where the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants, with the intent that the question as to which, if any, of the defendants is liable, and to what extent, may be determined between the parties.

137. Parties defendant in an action to determine conflicting claims to real property.—In an action brought by a person out of possession of real property, to determine an adverse claim of an interest or estate therein, the person making such adverse claim and persons in possession may be joined as defendants, and if the judgment be for the plaintiff, he may have a writ for the possession of the premises, as against the defendants in the action, against whom the judgment has passed.

CROSS-REFERENCES

Actions to quiet title, see section 661 of this title.
Writ of possession, see section 583 of this title.
Fresh parties, bringing in, see section 145 of this title.
Nonjoinder or misjoinder of parties, see section 211 of this title.

138. Parties in interest, when to be joined; when one or more may sue or defend for the whole.—Of the parties to the action, those who are united in interest must be joined as plaintiffs or defendants; but if the consent of any one who should have been joined as plaintiff cannot be obtained, he may be made a defendant, the reason thereof being stated in the complaint; and when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all.

CROSS-REFERENCES

Joinder, misjoinder, nonjoinder, see section 211 of this title.
Executors, etc., not qualified, need not be joined, see section 1527 of this title.

139. Plaintiff may sue in one action the different parties to commercial paper or insurance policies.—Persons severally liable upon the same obligation or instrument, including the parties to bills of exchange and promissory notes, and sureties on the same or separate instruments, may all or any of them be included in the same action, at the option of the plaintiff; and all or any of them join as plaintiffs in the same action, concerning or affecting the obligation or instrument upon which they are severally liable. Where the same person is insured by two or more insurers separately in respect to the same subject and interest, such person, or the payee under the policies, or the assignee of the cause of action, or other successor in interest of such assured or payee, may join all or any of such insurers in a single action for the recovery of a loss under the several policies, and in case of judgment a several judgment must be rendered against each of such insurers according as his liability shall appear.

CROSS-REFERENCE

Judgment for or against one or more of several parties, see sections 167, 412, and 413 of this title.

140. Tenants in common, etc., may sever in bringing or defending actions.—All persons holding as tenants in common, joint tenants, or coparceners, or any number less than all, may jointly or severally commence or defend any civil action or proceeding for the enforcement or protection of the rights of such party.

141. Action, when not to abate by death, marriage, or other disability; proceedings in such case.—An action or proceeding does not abate by the death, or any disability of a party, or by the transfer of any interest therein, if the cause of action survive or continue. In case of the death or any disability of a party, the court, on motion, may allow the action or proceeding to be continued by or against his representative or successor in interest. In case of any other transfer of interest, the action or proceeding may be continued in the name of the original party, or the court may allow the person to whom the transfer is made to be substituted in the action or proceeding.

Cross-References

Form of judgment against representative if party dies, see section 1485 of this title.

Necessity of claiming against estate of deceased, see sections 1475 and 1483 of this title.

Death after verdict or decision, and before judgment, see section 546 of this title.

Survival of actions, see sections 1522 et seq., of this title.

Survival of action by or against officer of Canal Zone, see U.S. Code, title 28, section 780 (appendix, p. 984).

142. Another person may be substituted for the defendant; conflicting claims, how made.—A defendant, against whom an action is pending upon a contract, or for specific personal property, may, at any time before answer, upon affidavit that a person not a party to the action makes against him, and without any collusion with him, a demand upon such contract, or for such property, upon notice to such person and the adverse party, apply to the court for an order to substitute such person in his place, and discharge him from liability to either party, on his depositing in court the amount claimed on the contract, or delivering the property or its value to such person as the court may direct; and the court may, in its discretion, make the order. And whenever conflicting claims are or may be made upon a person for or relating to personal property, or the performance of an obligation, or any portion thereof, such person may bring an action against the conflicting claimants to compel them to interplead and litigate their several claims among themselves. The order of substitution may be made and the action of interpleader may be maintained, and the applicant or plaintiff be discharged from liability to all or any of the conflicting claimants, although their titles or claims have not a common origin, or are not identical, but are adverse to and independent of one another.

143. Intervention, when it takes place, and how made.—At any time before trial, any person, who has an interest in the matter in litigation, or in the success of either of the parties, or an interest against both, may intervene in the action or proceeding. An intervention takes place when a third person is permitted to become a party to an action or proceeding between other persons, either by joining the plaintiff in claiming what is sought by the complaint, or by uniting with the defendant in resisting the claims of the plaintiff, or by demanding anything adversely to both the plaintiff and the defendant, and is made by complaint, setting forth the grounds upon which the intervention rests, filed by leave of the court and served upon the parties to the action or proceeding who have not appeared, and upon the attorneys of the parties who have appeared, who may answer or demur to it within ten days from the service thereof, if served within the Canal Zone, or within forty days if served elsewhere.

144. Associates may be sued by name of association.—When two or more persons, associated in any business, transact such business under a common name, whether it comprises the names of such persons or not, the associates may be sued by such common name, the summons in such cases being served on one or more of the associates; and the judgment in the action shall bind the joint property of all the associates, and the individual property of the party or parties served with process, in the same manner as if all had been named defendants and had been sued upon their joint liability.

Cross-References

Service on association, see section 166 of this title.

Judgment for or against one or more of several defendants, see sections 412 and 413 of this title.

145. Court, when to decide controversy or to order other parties to be brought in.—The court may determine any controversy between parties before it, when it can be done without prejudice to the rights of others, or by saving their rights; but when a complete determination of the controversy cannot be had without the presence of other parties, the court must then order them to be brought in, and to that end may order amended and supplemental pleadings, or a cross-complaint to be filed, and summons thereon to be issued and served. And when, in an action for the recovery of real or personal property, or to determine conflicting claims thereto, a person, not a party to the action, but having an interest in the subject thereof, makes application to the court to be made a party, it may order him to be brought in, by the proper amendment.

Cross-Reference

Adding or striking out name of party, see section 275 of this title.

CHAPTER 7.—PLACE OF TRIAL OF CIVIL ACTIONS

Sec.
151. Place of trial of civil actions in general.
152. Actions for divorce.
153. Change of venue.

Section 151. Place of trial of civil actions in general.—All actions not hereinafter otherwise provided for may be brought in the division or subdivision where the defendant or necessary party defendant may reside or be found, or in the division or subdivision where the plaintiff or one of the plaintiffs resides, at the election of the plaintiff, except in cases where other special provision is made in this title. In case neither the plaintiff nor the defendant resides within the Canal Zone, and the action is brought to seize or obtain title to property of the defendant within the Canal Zone, the action shall be brought in the division or subdivision where the property which the plaintiff seeks to seize or obtain title to is situated or is found.

Actions against executors, administrators, and guardians touching the performance of their official duties, and actions for account and settlement by them, and actions for the distribution of the estates of deceased persons among the heirs and distributees, and actions for the payment of legacies, shall be brought in the division in which the will was admitted to probate, or letters of administration were granted, or the guardian was appointed.

Actions to obtain possession of real property, or to recover damages for injuries to real property, or to establish any interest or right in or to real property, shall be brought in the division where such property, or some part thereof, is situated.

And in all cases process may issue from the division of the district court in which an action or special proceeding is pending, to be in force in either division, to bring in defendants and to enforce all orders and decrees of the court.

The failure of the defendant to object to the venue of the action at the time of entering his appearance in the action shall be deemed a waiver on his part of all objections thereto, except in the case of actions against executors, administrators, and guardians, and for the distribution of estates and payment of legacies.

152. Actions for divorce.—Complaints for divorce shall be filed in the division of the district court in which the plaintiff resides. (Sept. 21, 1922, ch. 370, sec. 13, 42 Stat. 1008; Feb. 27, 1933, ch. 127, sec. 112, 47 Stat. 924.)

CROSS-REFERENCE

Residence defined, see title 3, section 108.

153. Change of venue.—The district judge may order a change of venue in any civil case or special proceeding from one division of said court to the other, whenever in his opinion, in the interest of justice, such action becomes necessary. Such change of venue may be ordered upon the motion of the judge, on the application of either party or by consent of parties.

Whenever a change of venue has been ordered by the court, the clerk shall immediately make out a true transcript of all the orders made in said cause, and certify thereto under his official seal, and transmit the same with the original papers in the case to the other division of the district, and the case shall be tried therein as if it had been instituted there originally.

CHAPTER 8.—MANNER OF COMMENCING CIVIL ACTIONS

Art.	Sec.	Art.	Sec.
1. In general	161	2. Process in divorce actions	181

CROSS-REFERENCE

Process may issue from one division of the district court to be in force in the other, see section 151 of this title.

ARTICLE 1.—IN GENERAL

Sec.
161. Actions, how commenced.
162. Complaint, how indorsed; when summons may be issued, and how waived.
163. Summons, how issued, directed, and what to contain, in general.
164. Alias summons.
165. Summons, how served and returned, in general.
166. Service of summons, in general.
167. Proceedings where there are several defendants, and part only are served.
168. Cases in which service of summons may be by publication, in general.
169. Manner of publication in general.
170. Proof of service, how made, in general.
171. When jurisdiction of action is acquired.

Section 161. Actions, how commenced.—Civil actions in the district court are commenced by filing a complaint.

CROSS-REFERENCE

Action is commenced when complaint filed, see section 101 of this title.

162. Complaint, how indorsed; when summons may be issued, and how waived.—The clerk must indorse on the complaint the day, month, and year that it is filed, and at any time within one year thereafter, the plaintiff may have a summons issued, and if the action be brought against two or more defendants, who reside in different divisions, may have a summons issued for each of such divisions at the same time. But at any time within the year after the complaint is filed, the defendant may, in writing, or by appearing and answering or demurring, waive the issuing of summons; or, if the action be brought upon a joint contract of two or more defendants, and one of them has appeared within the year, the other or others may be served or appear after the year at any time before trial.

CROSS-REFERENCES

Admission of service by defendant, see section 170 of this title.
Alias summons, see section 164 of this title.
Appearance, see sections 171 and 945 of this title.
Time for issuance of summons, see section 416 of this title.

163. Summons, how issued, directed, and what to contain, in general.—The summons must be directed to the defendant, signed by the clerk, and issued under the seal of the court, and must contain:

1. The names of the parties to the action, the court in which it is brought, and the division in which the complaint is filed;

2. A direction that the defendant appear and answer the complaint within ten days, if the summons is served within the Canal Zone; within forty days, if served outside of the Canal Zone;

3. A notice that, unless the defendant so appears and answers, the plaintiff will take judgment for any money or damages demanded in the complaint as arising upon contract, or will apply to the court for any other relief demanded in the complaint.

CROSS-REFERENCES

Joint debtor, summoning after judgment, see sections 901 and 902 of this title.
Summons in forcible entry and detainer proceedings, see section 1148 of this title.
Time for issuance of, see section 416 of this title.

164. Alias summons.—If the summons is returned without being served on any or all of the defendants, or if it has been lost, the clerk, upon the demand of the plaintiff, may issue an alias summons in the same form as the original, and within such time as the original might have been served if it had not been lost or returned.

CROSS-REFERENCES

Alias summons in magistrate's court, see sections 698 and 699 of this title.
New summons in action for forcible entry and detainer, see section 1148 of this title.

165. Summons, how served and returned, in general.—The summons may be served by the marshal, or by any other person over the age of eighteen, not a party to the action. A copy of the complaint must be served, with the summons, upon each of the defendants. When the summons is served by the marshal, it must be returned, with his certificate of its service and of the service of any copy of the complaint, where such copy is served, to the office of the clerk from which it issued. When it is served by any other person, it must be returned to the same place, with an affidavit of such person of its service, and of the service of a copy of the complaint, where such copy is served.

CROSS-REFERENCES

Divorce actions, service by publication, see section 182 of this title.
Time for service and return of, see section 416 of this title.
Return of summons in proceedings in forcible entry and detainer, see section 1148 of this title.

166. Service of summons, in general.—The summons must be served by delivering a copy thereof as follows:

1. If suit is against a foreign corporation, or a nonresident joint stock company or association doing business within the Canal Zone: To a managing or business agent, cashier or secretary, if such there be within the Canal Zone; or to any agent authorized to accept service for it.
2. If against a minor, under the age of fourteen years, residing within the Canal Zone: To such minor, personally, and also to his father, mother, or guardian; or if there be none within the Canal Zone, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed.
3. If against a person residing within the Canal Zone who has been judicially declared to be of unsound mind, or incapable of conducting his own affairs, and for whom a guardian has been appointed: To such person, and also to his guardian.
4. In all cases where a corporation has forfeited its right to do business in the Canal Zone, by delivering a copy thereof to one of the persons who have become the trustees of the corporation and of its stockholders or members.
5. In all other cases to the defendant personally.

CROSS-REFERENCES

Service on guardian of infant or incompetent, see section 1694 of this title.
Service by publication on nonresidents, see section 168 of this title.
Proof of service, see section 170 of this title.
Service may be proved by affidavit, see section 2071 of this title.
Association, service may be on one of members of, see section 144 of this title.
Return of summons, see section 416 of this title.
Service of process on foreign corporation doing business in Canal Zone, see also title 3, section 221.

167. Proceedings where there are several defendants, and part only are served.—When the action is against two or more defendants jointly or severally liable on a contract, and the summons is served on one or more, but not on all of them, the plaintiff may proceed against the defendants served in the same manner as if they were the only defendants.

CROSS-REFERENCES

Joining persons severally liable upon instruments, see section 139 of this title.

Joint debtors, proceedings against, after judgment against same, see sections 901 et seq., of this title.

Judgment against some defendants, proceedings continuing against others, see section 413 of this title.

168. Cases in which service of summons may be by publication, in general.—Where the person on whom service is to be made resides out of the Canal Zone; or has departed from the Zone; or cannot, after due diligence, be found within the Zone; or conceals himself to avoid the service of summons; or is a corporation having no officer or other person upon whom summons may be served, who, after due diligence, can be found within the Zone, and the fact appears by affidavit to the satisfaction of the court, or the judge thereof; and it also appears by such affidavit, or by the verified complaint on file, that a cause of action exists against the defendant in respect to whom the service is to be made, or that he is a necessary or proper party to the action; or when it appears by such affidavit, or by the complaint on file, that it is an action which relates to or the subject of which is real or personal property in the Zone, in which such person defendant or corporation defendant has or claims a lien or interest, actual or contingent, therein, or in which the relief demanded consists wholly or in part in excluding such person or corporation from any interest therein, such court or judge may make an order that the service be made by the publication of the summons.

CROSS-REFERENCES

Publication of citation to attorney in disbarment proceeding, see section 56 of this title.

Proof of service by publication, see section 170 of this title.

Service of summons in magistrate's court by publication, see section 701 of this title.

Divorce actions, service by publication, see section 182 of this title.

169. Manner of publication in general.—The order must direct the publication to be made in such newspaper or newspapers, to be designated by the judge, as is, or are most likely to give notice to the person to be served, and for such length of time as may be deemed reasonable, at least once a week for three consecutive weeks; but the last publication against a defendant residing out of the Canal Zone, or absent therefrom, must not be less than forty days before the day on which the defendant is required to appear. In case of publication, where the residence of a nonresident or absent defendant is known, the judge must direct a copy of the summons and complaint to be forthwith deposited by the clerk in the post office, directed to the person to be served, at his place of residence. If the residence of the defendant is unknown, then to his last known place of residence with the request to forward if not called for in five days.

In any case where service by publication may be ordered, the court or judge, upon application of the plaintiff, shall authorize personal service upon the defendant outside of the Canal Zone. Such service shall be made by delivering to the defendant in person a true copy of the summons and the complaint, and may be made by any person not a party to or otherwise interested in the subject matter in controversy. Such service shall have only the effect of service of summons by publication. Return on such service shall be made under oath, with a notation of the time and place of service.

170. Proof service, how made, in general.—Proof of the service of summons and complaint must be as follows:

1. If served by the marshal or deputy, his certificate thereof;
2. If by any other person, his affidavit thereof;
3. In case of publication, the certificate of the clerk of the court to which a copy of the publication shall be attached; and a certificate of the clerk showing the deposit of a copy of the summons in the post office, if the same has been deposited; or
4. The written admission of the defendant.

In case of service otherwise than by publication, the certificate or affidavit must state the time and place of service.

CROSS-REFERENCES

Proof of service by affidavit, see sections 165 and 2071 of this title.
Proof of service part of judgment-roll, see section 547 of this title.
Proof of service in divorce actions, see section 182 of this title.

171. When jurisdiction of action is acquired.—From the time of the service of the summons and of a copy of the complaint in a civil action, where service of a copy of the complaint is required, or of the completion of the publication when service by publication is ordered, the court is deemed to have acquired jurisdiction of the parties, and to have control of all the subsequent proceedings. In all cases where a corporation has forfeited its right to do business in the Canal Zone, the persons who become the trustees of the corporation and of its stockholders or members may be sued in the corporate name of such corporation in like manner as if no forfeiture had occurred and from the time of service of the summons and of a copy of the complaint in a civil action, upon one of said trustees, or of the completion of the publication when service by publication is ordered, the court is deemed to have acquired jurisdiction of all said trustees, and to have control of all the subsequent proceedings. The voluntary appearance of a defendant is equivalent to personal service of the summons and copy of the complaint upon him.

CROSS-REFERENCES

Answer or demurrer is an appearance, see section 945 of this title.
Appearance equivalent to notice on probate of will, see section 1219 of this title.
Appearance in magistrate's court, see section 681 of this title.
Appearance by joint defendant, see section 162 of this title.
Appearance of attorney in disbarment proceedings, see section 57 of this title.
Effect of appearance where summons not issued or served, see section 416 of this title.
Infants or insane persons, appearance by guardian, see section 1694 of this title.
Appearance, written notice of, see section 945 of this title.

ARTICLE 2.—PROCESS IN DIVORCE ACTIONS

Sec.
181. Process in divorce actions in general.
182. Same; process and service, personal and by publication.
183. Time for appearance and answer in suits for divorce.

181. Process in divorce actions in general.—The process and practice in proceedings for divorce shall be the same as in other cases in equity except as otherwise provided in sections 152, 182, 183, 228, and 2155 of this title, and in sections 71 to 128 of title 3. (Sept. 21, 1922, ch. 370, sec. 16, 42 Stat. 1010; Dec. 29, 1926, ch. 19, sec. 4, 44 Stat. 926; Feb. 27, 1933, ch. 127, sec. 125, 47 Stat. 927.)

Cross-References

Law and equity need not be separately exercised, see title 7, section 24.
One form of civil action only, see section 71 of this title.

182. Same; process and service, personal and by publication.—(a) Upon the filing of a complaint for divorce and the affidavit required by subdivision (b) of section 108 of title 3, the clerk of the district court shall issue a summons requiring the defendant to appear and answer. If the defendant can be found in the Canal Zone, such summons shall be served by delivering to the defendant in person a true copy thereof and a copy of the complaint for divorce. If the defendant cannot be found in the Canal Zone, the summons shall be returned to such clerk with an indorsement thereon showing such fact.

(b) Upon application of the plaintiff, accompanied by the affidavit required by subdivision (c), if the summons has not been served as provided in subdivision (a), the court, or the judge thereof, shall enter an order directing service of a summons by publication if it appears to the satisfaction of such court or judge—

(1) That the defendant cannot be found in the Canal Zone; and

(2) That a proper cause for divorce is alleged in favor of the plaintiff; and

(3) Either (A) that the husband and wife have resided together in the Canal Zone and that the defendant has gone out of the Canal Zone and willfully refuses to return, so that process cannot be personally served upon such defendant; or (B) that the marriage was celebrated in the Canal Zone and that the defendant has abandoned the plaintiff and gone out of the Canal Zone in disregard of his or her marital obligations.

(c) The plaintiff shall file, with the application for an order directing service of summons by publication, an affidavit stating the present address of the defendant, except that if such address is not known to the plaintiff such affidavit shall state the last known address of the defendant, and that, after the exercise of due diligence, the plaintiff has been unable to ascertain such present address. Such affidavit shall contain such other information as the court, or the judge thereof, may require.

(d) Upon entry of an order directing service of a summons by publication the clerk of the court shall cause such summons to be published at least once each week for three successive weeks in the newspaper designated in such order. The court, or the judge thereof, shall designate a newspaper printed and published in the

Canal Zone and of general circulation therein, or a newspaper printed in English or having an English section or edition and published in the Republic of Panama and having a general circulation in the Canal Zone, which, in the opinion of the court or judge, will be most likely to give notice to the defendant. The clerk of the court shall mail a copy of the summons and a copy of the complaint, not later than ten days after the first publication of the summons, addressed to the defendant at his or her last known place of residence. The court is authorized to adopt rules prescribing the form of such summons.

(e) The clerk of the court, after the last publication of a summons, shall make certificate that the summons has been published and that a copy of the summons and complaint has been mailed as required in subdivision (d), and a copy of such summons as published shall be attached to such certificate. Such certificate and copy shall be evidence of such publication and mailing.

(f) In any case where service by publication may be ordered the court, or the judge thereof, upon application of the plaintiff, shall authorize personal service upon the defendant outside the Canal Zone. Such service shall be made by delivering to the defendant in person a true copy of the summons and a copy of the complaint for divorce, and may be made by any person not a party to or otherwise interested in the subject matter in controversy. Such service shall have only the effect of service of summons by publication. Return of such summons shall be made with a notation of the time and place of service and the fact that the defendant served is a nonresident of the Canal Zone. Such return shall be made under oath. The cost of making such service shall be borne by the party at whose instance the same was made, except that if made by any officer authorized to serve process, the actual cost of such service shall be included as a part of the costs of the case.

(g) All the facts relating to the service of summons, whether made personally or by publication, must be established to the satisfaction of the court, or the judge thereof, before any decree is entered pursuant to a complaint for divorce. (Sept. 21, 1922, ch. 370, sec. 15, 42 Stat. 1009; Dec. 29, 1926, ch. 19, sec. 3, 44 Stat. 924; Feb. 27, 1933, ch. 127, sec 126, 47 Stat. 927.)

CROSS-REFERENCES

Additional notice to defendant may be ordered in case of default, see title 3, section 114.

No judgment for alimony unless defendant is personally served or appears, see title 3, section 120.

Residence defined, see title 3, section 108.

183. Time for appearance and answer in suits for divorce.—In no divorce proceedings shall the cause stand for trial before the expiration of the time allowed for the defendant to appear and answer. A summons issued or published under the next preceding section shall require the defendant to appear and answer—

(1) Within ten days after personal service thereof if such service is had in the Canal Zone;

(2) Within thirty days after personal service thereof if such service is had in the Republic of Panama;

(3) Within ninety days after personal service if such service is had outside of the Canal Zone and the Republic of Panama;

(4) Within thirty days after the first publication of summons if the defendant resides in the Canal Zone or the Republic of Panama; and

(5) Within ninety days after the first publication of summons if the defendant resides outside the Canal Zone and the Republic of Panama. (Sept. 21, 1922, ch. 370, sec. 16, 42 Stat. 1010; Dec. 29, 1926, ch. 19, sec. 4, 44 Stat. 926; Feb. 27, 1933, ch. 127, sec. 127, 47 Stat. 928.)

CHAPTER 9.—PLEADINGS IN CIVIL ACTIONS

Art.	Sec.
1. Pleadings in general	191
2. Complaint	201
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ARTICLE 1.—PLEADINGS IN GENERAL

Sec.
191. Definition of pleadings.
192. This title prescribes the form and rules of pleadings.
193. What pleadings are allowed.

Section 191. Definition of pleadings.—The pleadings are the formal allegations by the parties of their respective claims and defenses, for the judgment of the court.

192. This title prescribes the form and rules of pleadings.—The forms of pleading in civil actions, and the rules by which the sufficiency of the pleadings is to be determined, are those prescribed in this title.

Cross-References

One form of action, see section 71 of this title.
Rules of pleading, generally, see section 251 et seq., of this title.
Answer, what to contain, see sections 221 et seq., of this title.
Complaint, what to contain, see sections 202 et seq., of this title.

193. What pleadings are allowed.—The only pleadings allowed on the part of the plaintiff are:

1. The complaint;
2. The demurrer to the answer;
3. The demurrer to the cross-complaint;
4. The answer to the cross-complaint.

And on the part of the defendant:

1. The demurrer to the complaint;
2. The answer;
3. The cross-complaint;
4. The demurrer to the answer to the cross-complaint.

Cross-References

Complaint, see sections 201 et seq., of this title.
Cross-complaint and answer or demurrer thereto, see section 227 of this title.
Demurrer to complaint, see sections 211 et seq., of this title.
Answer, see sections 221 et seq., of this title.
Demurer to answer, see sections 231 and 232 of this title.
Pleadings in magistrate's court, see sections 711 et seq., of this title.
Supplemental complaint or answer, see section 262 of this title.

ARTICLE 2.—COMPLAINT

Sec.
201. Complaint, first pleading.
202. Complaint, what to contain.
203. Statement of facts in divorce complaint.
204. Causes of action which may be united; causes united must belong to one class.

201. Complaint, first pleading.—The first pleading on the part of the plaintiff is the complaint.

CROSS-REFERENCES

Action is commenced when complaint filed, see sections 101 and 161 of this title.

Supplemental complaint, see section 262 of this title.

202. Complaint, what to contain.—The complaint must contain:

1. The title of the action, the name of the court and division in which the action is brought, and the names of the parties to the action;
2. A statement of the facts constituting the cause of action, in ordinary and concise language;
3. A demand of the relief which the plaintiff claims. If the recovery of money or damages be demanded, the amount thereof must be stated.

CROSS-REFERENCES

Title, papers defectively entitled, see section 952 of this title.
Venue, see sections 151 to 153 of this title.
Parties, misjoinder or nonjoinder, see section 211 of this title.
Association may be sued under common name, see section 144 of this title.
Intervention, see section 143 of this title.
Fictitious names for defendants, see section 276 of this title.
Errors and defects to be disregarded, see section 277 of this title.
Material allegations, not controverted, taken as true, see section 260 of this title.
Service of complaint, see section 165 of this title.
Several causes of action, uniting, see section 204 of this title.
Amendment of pleadings, see sections 213, 274, and 275 of this title.
Variance, see sections 271 et seq., of this title.
Supplemental complaint, see section 262 of this title.
Verification of pleadings, see section 241 of this title.
One form of action only, see section 71 of this title.
Pleadings in magistrates' courts, see section 711 et seq., of this title.
General rules of pleading, see sections 251 et seq., of this title.

203. Statement of facts in divorce complaint.—In an action for divorce the complaint must set forth, among other matters, as near as can be ascertained, the following facts:

(1) The State or country in which the parties were married.
(2) The date of marriage.
(3) The date of separation.
(4) The number of years from marriage to separation.
(5) The number of children of the marriage, if any, and if none, a statement of that fact.
(6) The ages of the minor children.

204. Causes of action which may be united; causes united must belong to one class.—The plaintiff may unite several causes of action in the same complaint, where they all arise out of:

1. Contracts, express or implied;

2. Claims to recover damages for the withholding of specific real property, or for waste committed thereon, and the rents and profits of the same;

3. Claims to recover specific personal property, with or without damages for the withholding thereof;

4. Claims against a trustee by virtue of a contract or by operation of law;

5. Injuries to character;

6. Injuries to person;

7. Injuries to property;

8. Claims arising out of the same transaction, or transactions connected with the same subject of action, and not included within one of the foregoing subdivisions of this section.

The causes of action so united must all belong to one only of these classes, and must affect all the parties to the action, and not require different places of trial, and must be separately stated; but an action for malicious arrest and prosecution, or either of them, may be united with an action for either an injury to character or to the person: *Provided*, *however*, That in any action brought by the husband and wife, to recover damages caused by any injury to the wife, all consequential damages suffered or sustained by the husband alone, including loss of the services of his said wife, moneys expended and indebtedness incurred by reason of such injury to his said wife, may be alleged and recovered without separately stating such cause of action arising out of such consequential damages suffered or sustained by the husband: *Provided*, *further*, That causes of action for injuries to person and injuries to property, growing out of the same tort, may be joined in the same complaint, and it is not required that they be stated separately.

CROSS-REFERENCE

Joining separate insurers in single action, see section 139 of this title.

ARTICLE 3.—DEMURRER TO COMPLAINT

Sec.
211. When defendant may demur.
212. Demurrer must specify grounds; may be taken to part; may answer and demur at same time.
213. What proceedings are to be had when complaint is amended.
Sec.
214. Objection not appearing on complaint, may be taken by answer.
215. Objections, when deemed waived.

211. When defendant may demur.—The defendant may demur to the complaint within the time required in the summons to answer, when it appears upon the face thereof, either:

1. That the court has no jurisdiction of the person of the defendant, or the subject of the action;

2. That the plaintiff has not legal capacity to sue;

3. That there is another action pending between the same parties for the same cause;

4. That there is a defect or misjoinder of parties plaintiff or defendant;

5. That several causes of action have been improperly united, or not separately stated;

6. That the complaint does not state facts sufficient to constitute a cause of action;
7. That the complaint is ambiguous;
8. That the complaint is unintelligible; or
9. That the complaint is uncertain.

CROSS-REFERENCES

Demurring and answering at same time, see sections 212 and 226 of this title.
Extending time to demur, see section 960 of this title.
Serving demurrer, see section 263 of this title.
Judgment on demurrer, see section 504 of this title.
Demurrer in an appearance, see section 945 of this title.
Waiving objections by failure to demur, see section 215 of this title.

212. Demurrer must specify grounds; may be taken to part; may answer and demur at same time.—The demurrer must distinctly specify the grounds upon which any of the objections to the complaint are taken. Unless it does so, it may be disregarded. It may be taken to the whole complaint, or to any of the causes of action stated therein, and the defendant may demur and answer at the same time.

213. What proceedings are to be had when complaint is amended.—If the complaint is amended, a copy of the amendments must be filed, or the court may, in its discretion, require the complaint as amended to be filed, and a copy of the amendments or amended complaint must be served upon the defendants affected thereby. The defendant must answer the amendments, or the complaint as amended, within ten days after service thereof, or such other time as the court may direct, and judgment by default may be entered upon failure to answer, as in other cases.

CROSS-REFERENCE

Amendment, generally, see sections 274 and 275 of this title.

214. Objection not appearing on complaint, may be taken by answer.—When any of the matters enumerated in section 211 of this title do not appear upon the face of the complaint, the objection may be taken by answer.

215. Objections, when deemed waived.—If no objection be taken, either by demurrer or answer, the defendant must be deemed to have waived the same, excepting only the objection to the jurisdiction of the court, and the objection that the complaint does not state facts sufficient to constitute a cause of action.

CROSS-REFERENCES

Waiver of counterclaim by omission to set up, see section 224 of this title.
Omission to set up in magistrate's court, see section 716 of this title.

ARTICLE 4.—ANSWER

Sec.
221. Answer, what to contain.
222. Actions to recover insurance; what defendant claiming exemption must set up.
223. When counterclaim may be set up.
224. When defendant omits to set up counterclaim.
225. Counterclaim not barred by death or assignment.
226. Answer may contain several grounds of defense; defendant may answer part and demur to part of complaint.
227. Cross-complaint, in general.
228. Cross-complaint for divorce and proceedings thereon.

221. Answer, what to contain.—The answer of the defendant shall contain:

1. A general or specific denial of the material allegations of the complaint controverted by the defendant.

2. A statement of any new matter constituting a defense or counterclaim.

If the complaint be verified, the denial of each allegation controverted must be specific, and be made positively, or according to the information and belief of the defendant. If the defendant has no information or belief upon the subject sufficient to enable him to answer an allegation of the complaint, he may so state in his answer, and place his denial on that ground. If the complaint be not verified, a general denial is sufficient, but only puts in issue the material allegations of the complaint.

CROSS-REFERENCES

Pleas in abatement, see section 211 of this title.
Amendment, see sections 274 and 275 of this title.
Appearance answering is, see section 945 of this title.
Counterclaim, see sections 223 to 226 of this title.
Cross-complaint, see section 227 of this title.
Death or disability of party, see section 141 of this title.
Errors and defects to be disregarded, see section 277 of this title.
Striking out sham and irrelevant answers, see section 252 of this title.
Supplemental answer, see section 262 of this title.
Time to answer, extension of, see section 960 of this title.
Writing, effect of setting forth in answer, see sections 243 and 244 of this title.
Allegations not denied, when deemed true, see section 260 of this title.
Objection not appearing on complaint, may be taken by answer, see section 214 of this title.
Waiver where no objection taken by answer, see section 215 of this title.

222. Actions to recover insurance; what defendant claiming exemption must set up.—In an action to recover upon a contract of insurance wherein the defendant claims exemption from liability upon the ground that, although the proximate cause of the loss was a peril insured against, the loss was remotely caused by or would not have occurred but for a peril excepted in the contract of insurance, the defendant shall in his answer set forth and specify the peril which was the proximate cause of the loss, in what manner the peril excepted contributed to the loss or itself caused the peril insured against, and if he claim that the peril excepted caused the peril insured against, he shall in his answer set forth and specify upon what premises or at what place the peril excepted caused the peril insured against.

223. When counterclaim may be set up.—The counterclaim mentioned in section 221 of this title must be one existing in favor of a defendant and against a plaintiff, between whom a several judgment might be had in the action, and arising out of one of the following causes of action:

1. A cause of action arising out of the transaction set forth in the complaint as the foundation of the plaintiff's claim, or connected with the subject of the action;

2. In an action arising upon contract; any other cause of action arising also upon contract and existing at the commencement of the action.

Cross-References

Dismissing action, where counterclaim, see section 415 of this title.
Counterclaim in magistrates' courts, see sections 715 and 716 of this title.
Counterclaim deemed denied, see section 260 of this title.
Judgment when counterclaim exceeds plaintiff's demand, see section 543 of this title.

224. When defendant omits to set up counterclaim.—If the defendant omits to set up a counterclaim upon a cause arising out of the transaction set forth in the complaint as the foundation of the plaintiff's claim, neither he nor his assignee can afterwards maintain an action against the plaintiff therefor.

Cross-Reference

Failure to set up in magistrate's court, see section 716 of this title.

225. Counterclaim not barred by death or assignment.—When cross demands have existed between persons under such circumstances that, if one had brought an action against the other, a counterclaim could have been set up, the two demands shall be deemed compensated, so far as they equal each other, and neither can be deprived of the benefit thereof by the assignment or death of the other.

226. Answer may contain several grounds of defense; defendant may answer part and demur to part of complaint.—The defendant may set forth by answer as many defenses and counterclaims as he may have. They must be separately stated, and the several defenses must refer to the causes of action which they are intended to answer, in a manner by which they may be intelligibly distinguished. The defendant may also answer one or more of the several causes of action stated in the complaint and demur to the residue.

227. Cross-complaint, in general.—Whenever the defendant seeks affirmative relief against any party, relating to or depending upon the contract, transaction, matter, happening or accident upon which the action is brought, or affecting the property to which the action relates, he may, in addition to his answer, file at the same time, or by permission of the court subsequently, a cross-complaint. The cross-complaint must be served upon the parties affected thereby, and such parties may demur or answer thereto as to the original complaint. If any of the parties affected by the cross-complaint have not appeared in the action, a summons upon the cross-complaint must be issued and served upon them in the same manner as upon the commencement of an original action.

CROSS-REFERENCES

Original complaint, see sections 202 et seq., of this title.
Dismissing action, where cross-complaint, see section 415 of this title.

228. Cross-complaint for divorce and proceedings thereon.—In addition to an answer, the defendant may file a cross-complaint for divorce; and when filed the court shall decree the divorce to the party legally entitled thereto. If the original complaint be dismissed after the filing of the cross-complaint, the defendant may proceed to the trial of the cross-complaint without further notice to the adverse party; and the case upon such cross-complaint shall in all things be governed by the same rules as are applicable to a case on an original complaint. (Sept. 21, 1922, ch. 370, sec. 19, 42 Stat. 1010; Feb. 27, 1933, ch. 127, sec. 147, 47 Stat. 932.)

ARTICLE 5.—DEMURRER TO ANSWER

Sec.
231. When plaintiff may demur to answer.
232. Grounds of demurrer.

231. When plaintiff may demur to answer.—The plaintiff may within ten days after the service of the answer demur thereto, or to one or more of the several defenses or counterclaims set up therein.

CROSS-REFERENCES

Demurrer to complaint, see section 211 of this title.
Service of demurrer, see section 263 of this title.
Extending time to demur, see section 960 of this title.
Time to answer when demurrer overruled, see section 278 of this title.

232. Grounds of demurrer.—The demurrer may be taken upon one or more of the following grounds:

1. That several causes of counterclaim have been improperly joined, or not separately stated;
2. That the answer does not state facts sufficient to constitute a defense or counterclaim;
3. That the answer is ambiguous;
4. That the answer is unintelligible; or
5. That the answer is uncertain.

CROSS-REFERENCE

Grounds of demurrer to complaint, see section 211 of this title.

ARTICLE 6.—VERIFICATION OF PLEADINGS

Sec.
241. Verification of pleadings.
242. Copy of written instrument contained in complaint admitted, unless answer is verified.
243. When defense is founded on written instrument set out in answer, its execution admitted, unless denied by plaintiff under oath.
244. Exceptions to rules prescribed by two preceding sections.

241. Verification of pleadings.—Every pleading must be subscribed by the party or his attorney; and when the complaint is verified, or when the Government, or any officer of the Government, in his official capacity, is plaintiff, the answer must be verified, unless an admission of the truth of the complaint might subject the party to a criminal prosecution, or, unless an officer of the Government in his official capacity, is defendant. In all cases of a verification of a pleading, the affidavit of the party must state that the same is true of his own knowledge, except as to the matters which are therein stated on his information or belief, and as to those matters that he believes it to be true; and where a pleading is verified, it must be by the affidavit of a party, unless the parties are absent from the division where the attorney has his office, or from some cause unable to verify it, or the facts are within the knowledge of his attorney or other person verifying the same. When the pleading is verified by the attorney, or any other person except one of the parties, he must set forth in the affidavit the reasons why it is not made by one of the parties. When a corporation is a party, the verification may be made by any officer thereof. When the Government, or any officer of the Government in his official capacity, is plaintiff, the complaint need not be verified.

CROSS-REFERENCES

Affidavits may be used to verify pleading, see section 2071 of this title.
Attorney's power to bind client, see section 48 of this title.
Verifying accusation for disbarring attorney, see section 55 of this title.

242. Copy of written instrument contained in complaint admitted, unless answer is verified.—When an action is brought upon a written instrument, and the complaint contains a copy of such instrument, or a copy is annexed thereto, the genuineness and due execution of such instrument are deemed admitted, unless the answer denying the same be verified.

CROSS-REFERENCE

Denial of written instrument under oath, see section 787 of this title.

243. When defense is founded on written instrument set out in answer, its execution admitted, unless denied by plaintiff under oath.—When the defense to an action is founded on a written instrument, and a copy thereof is contained in the answer, or is annexed thereto, the genuineness and due execution of such instrument are deemed admitted, unless the plaintiff file with the clerk, within ten days after receiving a copy of the answer, an affidavit denying the same, and serve a copy thereof on the defendant.

244. Exceptions to rules prescribed by two preceding sections.—But the execution of the instrument mentioned in sections 242 and 243 of this title, is not deemed admitted by a failure to deny the same under oath, if the party desiring to controvert the same is, upon demand, refused an inspection of the original. Such demand must be in writing, served by copy, upon the adverse party or his attorney, and filed with the papers in the case.

CROSS-REFERENCE

Inspection of writings, order for, see section 921 of this title.

ARTICLE 7.—GENERAL RULES OF PLEADING

Sec.
251. Pleadings to be liberally construed.
252. Sham and irrelevant answers, etc., may be stricken out.
253. How to state an account in a pleading.
254. Description of real property in a pleading.
255. Judgments, how pleaded.
256. Conditions precedent, how to be pleaded.
257. Statute of limitations, how pleaded.
258. Libel and slander, how stated in complaint.
259. Answer in such cases.
260. Allegations not denied, when to be deemed true; when to be deemed controverted.
261. A material allegation defined.
262. Supplemental complaint and answer.
263. Pleadings subsequent to complaint must be filed and served.

251. Pleadings to be liberally construed.—In the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties.

CROSS-REFERENCE

Errors and defects in pleading, disregarding, see section 277 of this title.

252. Sham and irrelevant answers, etc., may be stricken out.—Sham and irrelevant answers, and irrelevant and redundant matter inserted in a pleading, may be stricken out, upon such terms as the court may, in its discretion, impose.

253. How to state an account in a pleading.—It is not necessary for a party to set forth in a pleading the items of an account therein alleged, but he must deliver to the adverse party, within five days after a demand thereof in writing, a copy of the account or be precluded from giving evidence thereof. The court or judge may order a further account when the one delivered is too general, or is defective in any particular.

CROSS-REFERENCE

Exhibiting original account and delivering copy to adverse party, see section 786 of this title.

254. Description of real property in a pleading.—In an action for the recovery of real property, it must be described in the complaint with such certainty as to enable an officer, upon execution, to identify it.

255. Judgments, how pleaded.—In pleading a judgment or other determination of a court, officer, or board, it is not necessary to state the facts conferring jurisdiction, but such judgment or determination may be stated to have been duly given or made. If such allegation be controverted, the party pleading must establish on the trial the facts conferring jurisdiction.

CROSS-REFERENCES

Pleading judgment, see also section 2006 of this title.
Judgment as an estoppel, see section 1934 of this title.

256. Conditions precedent, how to be pleaded.—In pleading the performance of conditions precedent in a contract, it is not necessary to state the facts showing such performance, but it may be stated generally that the party duly performed all the conditions on his part, and if such allegation be controverted, the party pleading must establish, on the trial, the facts showing such performance.

CROSS-REFERENCE

Conditions precedent, see title 3, sections 693 et seq.

257. Statute of limitations, how pleaded.—In pleading the statute of limitations it is not necessary to state the facts showing the defense, but it may be stated generally that the cause of action is barred by the provisions of section —— (giving the number of the section and subdivision thereof, if it is so divided, relied upon) of the title; and if such allegation be controverted, the party pleading must establish, on the trial, the facts showing that the cause of action is so barred.

258. Libel and slander, how stated in complaint.—In an action for libel or slander it is not necessary to state in the complaint any extrinsic facts for the purpose of showing the application to the plaintiff of the defamatory matter out of which the cause of action arose; but it is sufficient to state, generally, that the same was published or spoken concerning the plaintiff; and if such allegation be controverted, the plaintiff must establish on the trial that it was so published or spoken.

CROSS-REFERENCE

Libel and slander, see title 3, sections 42 et seq.

259. Answer in such cases.—In the actions mentioned in the next preceding section the defendant may, in his answer, allege both the truth of the matter charged as defamatory, and any mitigating circumstances, to reduce the amount of damages; and whether he prove the justification or not, he may give in evidence the mitigating circumstances.

CROSS-REFERENCE

Libel and slander, see title 3, sections 42 et seq.

260. Allegations not denied, when to be deemed true; when to be deemed controverted.—Every material allegation of the complaint, not controverted by the answer, must, for the purposes of the action, be taken as true; the statement of any new matter in the answer in avoidance or constituting a defense or counterclaim, must, on the trial, be deemed controverted by the opposite party.

CROSS-REFERENCES

Cross-complaint must be replied to, see section 227 of this title.
Answer, see section 221 of this title.

261. A material allegation defined.—A material allegation in a pleading is one which is essential to the claim or defense, and which could not be stricken from the pleading without leaving it insufficient.

CROSS-REFERENCE

Immaterial allegations need not be answered, see section 260 of this title.

262. Supplemental complaint and answer.—The plaintiff and defendant, respectively, may be allowed, on motion, to make a supplemental complaint or answer, alleging facts material to the case occurring after the former complaint or answer.

Cross-Reference

Amendments of pleadings, see sections 274 and 275 of this title.

263. Pleadings subsequent to complaint must be filed and served.—All pleadings subsequent to the complaint must be filed with the clerk, and copies thereof served upon the adverse party or his attorney.

Cross-References

Service of papers, see sections 942 et seq., of this title.
Amendment of pleadings, service of, see sections 213 and 274 of this title.
Extending time to serve papers, see section 960 of this title.

ARTICLE 8.—VARIANCE; MISTAKES IN PLEADINGS AND AMENDMENTS

Sec.
271. Material variance, how provided for.
272. Immaterial variance, how provided for.
273. What not to be deemed a variance.
274. Amendments of course, and effect of demurrer.
275. Pleading may be amended.
276. Suing a party by a fictitious name, when allowed.
277. No error or defect to be regarded unless it affects substantial rights.
278. Time to amend or answer, running of.

271. Material variance, how provided for.—No variance between the allegation in a pleading and the proof is to be deemed material, unless it has actually misled the adverse party to his prejudice in maintaining his action or defense upon the merits. Whenever it appears that a party has been so misled, the court may order the pleading to be amended, upon such terms as may be just.

Cross-References

Variance, and failure of proof, see section 273 of this title.
Evidence must correspond with substance of material allegations, see section 1886 of this title.

272. Immaterial variance, how provided for.—Where the variance is not material, as provided in the next preceding section, the court may direct the fact to be found according to the evidence, or may order an immediate amendment, without costs.

Cross-Reference

Immaterial errors, generally, see section 277 of this title.

273. What not to be deemed a variance.—Where, however, the allegation of the claim or defense to which the proof is directed, is unproved, not in some particular or particulars only, but in its general scope and meaning, it is not to be deemed a case of variance, within the two next preceding sections, but a failure of proof.

Cross-Reference

Proof generally, see sections 1842 et seq., of this title.
Proof, dismissal for failure of, see section 415 of this title.

274. Amendments of course, and effect of demurrer.—Any pleading may be amended once by the party of course, and without costs, at any time before answer or demurrer filed, or after demurrer and before the trial of the issue of law thereon, by filing the same as amended and serving a copy on the adverse party, who may have ten days thereafter in which to answer or demur to the amended pleading. A demurrer is not waived by filing an answer at the same time; and when the demurrer to a complaint is overruled and there is no answer filed, the court may, upon such terms as may be just, allow an answer to be filed. If a demurrer to the answer be overruled, the facts alleged in the answer must be considered as denied, to the extent mentioned in section 260 of this title.

CROSS-REFERENCES

Filing amended complaint, see section 213 of this title.
Answer no waiver of demurrer, see section 212 of this title.

275. Pleading may be amended.—The court may in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect; and may, upon like terms, enlarge the time for answer or demurrer. The court may likewise, in its discretion, after notice to the adverse party, allow, upon such terms as may be just, an amendment to any pleading or proceeding in other particulars; and may upon like terms allow an answer to be made after the time limited by this title.

RELIEF FROM JUDGMENT OR ORDER; TIME FOR APPLICATION; PROCEDURE.—And may, also, upon such terms as may be just, relieve a party or his legal representative from a judgment, order, or other proceeding taken against him through his mistake, inadvertence, surprise, or excusable neglect: *Provided*, That application therefor be made within a reasonable time, but in no case exceeding six months after such judgment, order, or proceeding was taken: *And provided, further*, That said application must be accompanied with a copy of the answer, or other pleading proposed to be filed therein, otherwise said application shall not be granted. When from any cause the summons in an action has not been personally served on the defendant, the court may allow, on such terms as may be just, such defendant or his legal representative, at any time within one year after the rendition of any judgment in such action, to answer to the merits of the original action.

ACTION TO RECOVER PERSONAL PROPERTY.—When, in an action to recover the possession of personal property, the person making any affidavit did not truly state the value of the property, and the officer taking the property, or the sureties on any bond or undertaking is sued for taking the same, the officer or sureties may in their answer set up the true value of the property, and that the person in whose behalf said affidavit was made was entitled to the possession of the same when said affidavit was made, or that the value in the affidavit stated was inserted by mistake, the court shall disregard the value as stated in the affidavit, and give judgment according to the right of possession of said property at the time the affidavit was made.

CROSS-REFERENCES

Amendment of pleadings and relief from judgments in magistrate's court, see section 720 of this title.

Power of court to extend time, see section 960 of this title.

Adding parties, see section 145 of this title.

276. Suing a party by a fictitious name, when allowed.—When the plaintiff is ignorant of the name of a defendant, he must state that fact in the complaint, and such defendant may be designated in any pleading or proceeding by any name, and when his true name is discovered, the pleading or proceeding must be amended accordingly.

277. No error or defect to be regarded unless it affects substantial rights.—The court must, in every stage of an action, disregard any error, improper ruling, instruction, or defect, in the pleadings or proceedings which, in the opinion of said court, does not affect the substantial rights of the parties. No judgment, decision, or decree shall be reversed or affected by reason of any error, ruling, instruction, or defect, unless it shall appear from the record that such error, ruling, instruction, or defect was prejudicial, and also that by reason of such error, ruling, instruction, or defect, the said party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error, ruling, instruction, or defect had not occurred or existed. There shall be no presumption that error is prejudicial, or that injury was done if error is shown.

278. Time to amend or answer, running of.—When a demurrer to any pleading is sustained or overruled, and time to amend or answer is given, the time so given runs from the service of notice of the decision or order.

CROSS-REFERENCES

Time to answer, see sections 213, 274, and 275 of this title.

Notice, service of, see sections 941 et seq., of this title.

CHAPTER 10.—PROVISIONAL REMEDIES IN CIVIL ACTIONS

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ARTICLE 1.—ARREST AND BAIL

Sec.

291. No person to be arrested except as prescribed by this title.
292. Cases in which defendant may be arrested.
293. Affidavit to obtain order, what to contain.
294. Security by plaintiff before order of arrest.
295. Order, when made, and its form.
296. Affidavit and order to be delivered to the marshal, and copy to defendant.
297. Arrest, how made.
298. Defendant to be discharged on bail or deposit.
299. Bail, how given.
300. Surrender of defendant.
301. Same.
302. Bail, how proceeded against.
303. Bail, how exonerated.
304. Delivery of undertaking to plaintiff, and its acceptance or rejection by him.
305. Notice of justification; new undertaking, if other bail.
306. Qualifications of bail.
307. Justification of bail.
308. Allowance of bail.
309. Deposit of money with marshal.
310. Payment of money into court by marshal.
311. Substituting bail for deposit.
312. Money deposited, how applied or disposed of.
313. Marshal, when liable as bail, and his discharge from liability.
314. Proceedings on judgment against marshal.
315. Motion to vacate order of arrest or reduce bail; affidavits on motion.
316. When the order vacated or bail reduced.

Section 291. No person to be arrested except as prescribed by this title.—No person can be arrested in a civil action, except as prescribed in this title.

CROSS-REFERENCES

No later arrest after discharge, see section 1131 of this title.
Exemption of witnesses from arrest, see sections 2144 and 2145 of this title.

292. Cases in which defendant may be arrested.—The defendant may be arrested, as hereinafter prescribed, in the following cases:

1. In an action for the recovery of money or damages on a cause of action arising upon contract, express or implied, when the defendant is about to depart from the Canal Zone with intent to defraud his creditors.

2. In an action for a fine or penalty, or for money or property embezzled, or fraudulently misapplied, or converted to his own use, by a public officer, or an officer of a corporation, or an attorney, factor, broker, agent, or clerk, in the course of his employment as such, or by any other person in a fiduciary capacity; or for misconduct or neglect in office, or in a professional employment, or for a willful violation of duty.

3. In an action to recover the possession of personal property unjustly detained, when the property, or any part thereof, has been concealed, removed, or disposed of, to prevent its being found or taken by the marshal.

4. When the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought; or in concealing or disposing of the property for the taking, detention, or conversion, of which the action is brought.

5. When the defendant has removed or disposed of his property, or is about to do so, with intent to defraud his creditors.

CROSS-REFERENCES

Arrest of witness, see sections 2048, 2049, and 2144 to 2147 of this title.
Arrest for disobedience of order to produce will, see section 1215 of this title.
Arrest, when ordered in action for forcible entry and detainer, see section 1149 of this title.
Arrest of person suspected of embezzlement from or concealment of papers of an estate, see section 1453 of this title.
Executor, attachment of, for failure to account, see sections 1573 and 1574 of this title.
Arrest of debtor, when ordered in supplementary proceedings, see section 622 of this title.
Arrest in contempt proceedings, see section 1165 of this title.
Executor, arrest of, to compel attendance, see section 1415 of this title.

293. Affidavit to obtain order, what to contain.—The order for the arrest of the defendant may be made whenever it appears to the judge, by the affidavit of the plaintiff, or some other person, that a sufficient cause of action exists, and that the case is one of those mentioned in the next preceding section. The affidavit must be either positive or upon information and belief; and when upon information and belief, it must state the facts upon which the information and belief are founded. If an order of arrest be made, the affidavit must be filed with the clerk of the court.

CROSS-REFERENCE

Affidavit for arrest in magistrate's court, see section 732 of this title.

294. Security by plaintiff before order of arrest.—Before making the order, the judge must require a written undertaking on the part of the plaintiff, with sureties in an amount to be fixed by the judge, which must be at least $500, to the effect that the plaintiff will pay all costs which may be adjudged to the defendant, and all damages which he may sustain by reason of the arrest, if the same be wrongful, or without sufficient cause, not exceeding the sum specified in the undertaking. The undertaking must be filed with the clerk of the court.

CROSS-REFERENCES

Undertakings, generally, see sections 304 and 962 of this title.
Security by plaintiff before order of arrest in magistrate's court, see section 732 of this title.
Bail for release, see section 299 of this title.
Liability of sureties generally, see title 3, sections 2131 et seq.

295. Order, when made, and its form.—The order may be made at the time of the issuing of the summons, or any time afterwards before judgment. It must require the marshal forthwith to arrest the defendant and hold him to bail in a specified sum, and to return the order at a time therein mentioned, to the clerk of the court.

296. Affidavit and order to be delivered to the marshal, and copy to defendant.—The order of arrest, with a copy of the affidavit upon which it is made, must be delivered to the marshal, who, upon arresting the defendant, must deliver to him a copy of the affidavit, and also, if desired, a copy of the order of arrest.

297. Arrest, how made.—The marshal must execute the order by arresting the defendant and keeping him in custody until discharged by law.

CROSS-REFERENCE

Advancing funds for support of prisoner, see section 1132 of this title.

298. Defendant to be discharged on bail or deposit.—The defendant, at any time before execution, must be discharged from the arrest, either upon giving bail or upon depositing the amount mentioned in the order of arrest.

CROSS-REFERENCES

Deposit of money, see section 309 of this title.
Discharge of prisoners arrested on civil process, see sections 1121 to 1132 of this title.

299. Bail, how given.—The defendant may give bail by causing a written undertaking to be executed by two or more sufficient sureties, to the effect that they are bound in the amount mentioned in the order of arrest, that the defendant will at all times render himself amenable to the process of the court, during the pendency of the action, and to such as may be issued to enforce the judgment therein, or that they will pay to the plaintiff the amount of any judgment which may be recovered in the action.

CROSS-REFERENCES

Bail, qualifications of, see sections 306 and 963 of this title.
Bail, defined, see title 3, section 2049.

300. Surrender of defendant.—At any time before judgment, or within ten days thereafter, the bail may surrender the defendant in their exoneration; or he may surrender himself to the marshal.

301. Same.—For the purpose of surrendering the defendant, the bail, at any time or place before they are finally charged, may themselves arrest, or, by a written authority indorsed on a certified copy of the undertaking, may empower the marshal to do so. Upon the arrest of defendant by the marshal, or upon his delivery to the marshal by the bail, or upon his own surrender, the bail are exonerated, if such arrest, delivery, or surrender take place before the expiration of ten days after judgment; but if such arrest, delivery, or surrender be not made within ten days after judgment, the bail are finally charged on their undertaking, and bound to pay the amount of the judgment within ten days thereafter.

302. Bail, how proceeded against.—If the bail neglect or refuse to pay the judgment within ten days after they are finally charged, an action may be commenced against such bail for the amount of the original judgment.

CROSS-REFERENCE

Obligations of bail, see title 3, section 2049.

303. Bail, how exonerated.—The bail are exonerated by the death of the defendant or his imprisonment in jail or in the penitentiary, or by his legal discharge from the obligation to render himself amenable to the process.

304. Delivery of undertaking to plaintiff, and its acceptance or rejection by him.—Within the time limited for that purpose, the marshal must file the order of arrest in the office of the clerk of the court in which the action is pending, with his return indorsed thereon, together with a copy of the undertaking of the bail. The original undertaking he must retain in his possession until filed, as herein provided. The plaintiff, within ten days thereafter, may serve upon the marshal a notice that he does not accept the bail, or he is deemed to have accepted them, and the marshal is exonerated from liability. If no notice be served within ten days, the original undertaking must be filed with the clerk of the court.

305. Notice of justification; new undertaking, if other bail.—Within five days after the receipt of notice, the marshal or defendant may give to the plaintiff or his attorney notice of the justification of the same, or other bail (specifying the places of residence and occupations of the latter), before the judge or clerk of the court, at a specified time and place; the time to be not less than five nor more than ten days thereafter, except by consent of the parties. In case other bail be given, there must be a new undertaking.

CROSS-REFERENCES

Justification of bail, see section 307 of this title.
Filing of undertaking, see section 294 of this title.

306. Qualifications of bail.—The qualifications of bail are as follows:

1. Each of them must be a resident of the Canal Zone.
2. Each must be worth the amount specified in the order of arrest, or the amount to which the order is reduced, as provided in this article, over and above all his debts and liabilities, exclusive of property exempt from execution; but the judge or clerk, on justification, may allow more than two sureties to justify severally, in amounts less than that expressed in the order, if the whole justification be equivalent to that of two sufficient bail.

CROSS-REFERENCE

Qualifications of bail, see also section 963 of this title.

307. Justification of bail.—For the purpose of justification, each of the bail must attend before the judge or clerk, at the time and place mentioned in the notice, and may be examined on oath on the part of the plaintiff, touching his sufficiency, in such manner as the judge or clerk, in his discretion, may think proper. The examination must be reduced to writing, and subscribed by the bail, if required by the plaintiff.

308. Allowance of bail.—If the judge or clerk find the bail sufficient, he must annex the examination to the undertaking, indorse his allowance thereon, and cause them to be filed, and the marshal is thereupon exonerated from liability.

309. Deposit of money with marshal.—The defendant may, at the time of his arrest, instead of giving bail, deposit with the marshal the amount mentioned in the order. In case the amount of the bail be reduced, as provided in this article, the defendant may deposit such amount instead of giving bail. In either case the marshal must give the defendant a certificate of the deposit made, and the defendant must be discharged from custody.

CROSS-REFERENCE

Deposit of money, see section 298 of this title.

310. Payment of money into court by marshal.—The marshal must, immediately after the deposit, pay the same into court, and take from the clerk receiving the same two certificates of such payment, the one of which he shall deliver to the plaintiff's attorney, and the other to the defendant. For any default in making such payment, the same proceedings may be had on the official bond of the marshal, to collect the sum deposited, as in other cases of delinquency.

311. Substituting bail for deposit.—If money is deposited, as provided in sections 309 and 310 of this title, bail may be given and may justify upon notice, at any time before judgment; and on the filing of the undertaking and justification with the clerk, the money deposited must be refunded to the defendant.

312. Money deposited, how applied or disposed of.—Where money has been deposited, if it remain on deposit at the time of the recovery of a judgment in favor of the plaintiff, the clerk must, under the direction of the court, apply the same in satisfaction thereof; and after satisfying the judgment, refund the surplus, if any, to the defendant. If the judgment is in favor of the defendant, the clerk must, under like direction of the court, refund to him the whole sum deposited and remaining unapplied.

313. Marshal, when liable as bail, and his discharge from liability.—If, after being arrested, the defendant escape or is rescued, the marshal is liable as bail; but he may discharge himself from such liability by the giving of bail at any time before judgment.

314. Proceedings on judgment against marshal.—If a judgment is recovered against the marshal upon his liability as bail, and an execution thereon is returned unsatisfied in whole or in part, the same proceedings may be had on his official bond, for the recovery of the whole or any deficiency, as in other cases of delinquency.

315. Motion to vacate order of arrest or reduce bail; affidavits on motion.—A defendant arrested may, at any time before the trial of the action, or if there be no trial, before the entry of judgment, apply to the court or judge, upon reasonable notice, to vacate the order of arrest or to reduce the amount of bail. If the application be made upon affidavits on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavits or other proofs, in addition to those on which the order of arrest was made.

CROSS-REFERENCE

Discharge of persons imprisoned on civil process, see sections 1121 et seq., of this title.

316. When the order vacated or bail reduced.—If, upon such application, it appears that there was not sufficient cause for the arrest, the order must be vacated; or if it appears that the bail was fixed too high, the amount must be reduced.

ARTICLE 2.—CLAIM AND DELIVERY OF PERSONAL PROPERTY

Sec.
321. Delivery of personal property, when it may be claimed.
322. Affidavit and its requisites.
323. Requisition to marshal to take and deliver the property.
324. Security on the part of the plaintiff, and proceedings in serving the order.
325. Exception to sureties and proceedings thereon, or on failure to except.
326. Defendant, when entitled to redelivery.
Sec.
327. Justification of defendant's sureties.
328. Qualifications of sureties.
329. Property, how taken when concealed in building or inclosure.
330. Property, how kept.
331. Claim of property by third person.
332. Notice and affidavit, when and where to be filed.
333. Protection of plaintiff in possession of property.

321. Delivery of personal property, when it may be claimed.—The plaintiff in an action to recover the possession of personal property may, at the time of issuing the summons, or at any time before answer, claim the delivery of such property to him as provided in this article.

CROSS-REFERENCES

Joinder of action to recover personal property with damages for withholding, see section 204 of this title.

Claim of third person to property, see section 589 of this title.

Execution for the delivery of personal property, how executed, see section 583 of this title.

Verdict and judgment in action to recover personal property, see sections 484 and 544 of this title.

322. Affidavit and its requisites.—Where a delivery is claimed, an affidavit must be made by the plaintiff, or by someone in his behalf, showing:

1. That the plaintiff is the owner of the property claimed (particularly describing it), or is entitled to the possession thereof;
2. That the property is wrongfully detained by the defendant;
3. The alleged cause of the detention thereof, according to his best knowledge, information, and belief;
4. That it has not been taken for a tax, assessment, or fine, pursuant to a statute; or seized, under an execution or an attachment against the property of the plaintiff; or, if so seized, that it is by statute exempt from such seizure;
5. The actual value of the property.

CROSS-REFERENCE

Incorrect statement of value in affidavit, see section 275 of this title.

323. Requisition to marshal to take and deliver the property.—The plaintiff or his attorney may, thereupon, by an indorsement in writing upon the affidavit, require the marshal to take the property from the defendant.

324. Security on the part of the plaintiff, and proceedings in serving the order.—Upon a receipt of the affidavit and notice, with a written undertaking, executed by two or more sufficient sureties, approved by the marshal, to the effect that they are bound to the defendant in double the value of the property as stated in the affidavit for the prosecution of the action, for the return of the property to the defendants, if return thereof be adjudged, and for the payment to him of such sum as may from any cause be recovered against the plaintiff, the marshal must forthwith take the property described in the affidavit, if it be in the possession of the defendant or his agent, and retain it in his custody. He must, without delay, serve on the defendant a copy of the affidavit, notice, and undertaking, by delivering the same to him personally, if he can be found, or to his agent from whose possession the property is taken; or, if neither can be found, by leaving them at the usual place of abode of either, with some person of suitable age and discretion, or, if neither have any known place of abode, by putting them in the nearest post office, directed to the defendant.

CROSS-REFERENCES

Qualifications of sureties, see sections 306 and 963 of this title.
Return of property to defendant, see sections 484 and 544 of this title.
Dismissal of action, see section 415 of this title.
Value stated in affidavit not conclusive evidence, see section 275 of this title.

325. Exception to sureties and proceedings thereon, or on failure to except.—The defendant may, within two days after the service of a copy of the affidavit and undertaking, give notice to the marshal that he excepts to the sufficiency of the sureties. If he fails to do so, he is deemed to have waived all objections to them. When the defendant excepts, the sureties must justify on notice in like manner as upon bail on arrest; and the marshal is responsible for the sufficiency of the sureties until the objection to them is either waived or until they justify. If the defendant except to the sureties, he cannot reclaim the property as provided in the section next following.

CROSS-REFERENCE

Justification of sureties, see sections 306, 307, and 963 of this title.

326. Defendant, when entitled to redelivery.—At any time before the delivery of the property to the plaintiff, the defendant may, if he do not except to the sureties of the plaintiff, require the return thereof, upon giving to the marshal a written undertaking, executed by two or more sufficient sureties, to the effect that they are bound in double the value of the property, as stated in the affidavit of the plaintiff, for the delivery thereof to the plaintiff, if such delivery be adjudged, and for the payment to him of such sum as may, for any cause, be recovered against the defendant. If a return of the property be not so required within five days after the taking and service of notice to the defendant, it must be delivered to the plaintiff, except as provided in section 331 of this title.

CROSS-REFERENCE

Qualifications of sureties, sections 306, 307, and 963 of this title.

327. Justification of defendant's sureties.—The defendant's sureties, upon notice to the plaintiff of not less than two or more than five days, must justify before the judge or clerk of the court, in the same manner as upon bail on arrest; and upon such justification the marshal must deliver the property to the defendant. The marshal is responsible for the defendant's sureties until they justify, or until the justification is completed or waived, and may retain the property until that time. If they, or others in their place, fail to justify at the time and place appointed, he must deliver the property to the plaintiff.

328. Qualifications of sureties.—The qualifications of sureties must be such as are prescribed by this title, in respect to bail upon an order of arrest.

CROSS-REFERENCE

Qualifications of sureties, see sections 306, 307, and 963 of this title.

329. Property, how taken when concealed in building or inclosure.—If the property, or any part thereof, be concealed in a building or inclosure, the marshal must publicly demand its delivery. If it be not delivered, he must cause the building or inclosure to be broken open, and take the property into his possession.

330. Property, how kept.—When the marshal has taken property, as in this article provided, he must keep it in a secure place, and deliver it to the party entitled thereto, upon receiving his fees for taking and his necessary expenses for keeping the same.

331. Claim of property by third person.—If the property taken be claimed by any other person than the defendant or his agent, and such person make affidavit of his title thereto, or right to the possession thereof, stating the grounds of such title or right, and serve the same upon the marshal, the marshal is not bound to keep the property or deliver it to the plaintiff, unless the plaintiff, on demand of him or his agent, indemnify the marshal against such claim, by an undertaking by two sufficient sureties; and no claim to such property by any other person than the defendant or his agent is valid against the marshal unless so made.

332. Notice and affidavit, when and where to be filed.—The marshal must file the notice, undertaking, and affidavit, with his proceedings thereon, with the clerk of the court, within twenty days after taking the property mentioned therein.

333. Protection of plaintiff in possession of property.—After the property has been delivered to the plaintiff as in this article provided, the court shall, by appropriate order, protect the plaintiff in possession of said property until the final determination of the action.

ARTICLE 3.—INJUNCTION

Sec.
341. Injunction, what is, and who may grant it.
342. When injunction may be granted or may not.
343. Injunction; time of granting; service of copy.
344. Injunction after answer.
345. Security upon injunction.
346. Motion to vacate or modify injunction; procedure.

341. Injunction, what is, and who may grant it.—An injunction is a writ or order requiring a person to refrain from a particular act. It may be granted by the district court, or the judge thereof, in any action brought in said court; and when granted by the judge, it may be enforced as an order of the court.

CROSS-REFERENCES

Disobedience to injunction as contempt, see section 1163 of this title.
Limitations, how affected by injunction, see section 107 of this title.
Proceedings to obtain injunction, see sections 343 to 346 of this title.
Power to grant injunction in chambers, see section 27 of this title.
Review of interlocutory order or decree, granting, continuing, modifying, refusing, or dissolving an injunction, see U.S. Code, title 28, section 227 (appendix, p. 982).

342. When injunction may be granted or may not.—An injunction may be granted in the following cases:

1. When it appears by the complaint that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually;
2. When it appears by the complaint or affidavits that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury, to a party to the action;
3. When it appears, during the litigation, that a party to the action is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action respecting the subject of the action, and tending to render the judgment ineffectual;
4. When pecuniary compensation would not afford adequate relief;
5. Where it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief;
6. Where the restraint is necessary to prevent a multiplicity of judicial proceedings;
7. Where the obligation arises from a trust.

An injunction cannot be granted:

1. To stay a judicial proceeding pending at the commencement of the action in which the injunction is demanded, unless such restraint is necessary to prevent a multiplicity of such proceedings;
2. To prevent the execution of a public statute by officers of the law for the public benefit;
3. To prevent the breach of a contract, the performance of which would not be specifically enforced;
4. To prevent the exercise of a public or private office, in a lawful manner, by the person in possession.

CROSS-REFERENCES

Effect of granting on statute of limitations, see section 107 of this title.
Preventive relief only given in specified cases, see title 3, section 2611.
Not granted to enforce forfeiture or penalty, see title 3, section 2684.
Preventive relief, how given, see title 3, section 2683.
Enjoining nuisance, see section 651; and title 3, section 2684.
Mortgage, restraining party in possession from waste during foreclosure, see section 668 of this title.

343. Injunction; time of granting; service of copy.—An injunction may be granted at any time before judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits in the other, show satisfactorily that sufficient grounds exist therefor. A copy of the complaint or of the affidavits, upon which the injunction was granted, must, if not previously served, be served therewith.

NOTICE.—No preliminary injunction shall be granted without notice to the opposite party; nor shall any temporary restraining order be granted without notice to the opposite party, unless it shall appear from facts shown by affidavit or by the verified complaint that great or irreparable injury would result to the applicant before the matter can be heard on notice. In case a temporary restraining order shall be granted without notice, in the contingency above specified, the matter shall be made returnable on an order requiring cause to be shown why the injunction should not be granted, on the earliest day that the business of the court will admit of, but not later than ten days from the date of such order.

PARTY OBTAINING ORDER MUST BE READY; SERVICE OF COMPLAINT, AFFIDAVITS AND POINTS AND AUTHORITIES.—When the matter first comes up for hearing the party who obtained the temporary restraining order must be ready to proceed and must have served upon the opposite party at least two days prior to such hearing, a copy of the complaint and of all affidavits to be used in such application and a copy of his points and authorities in support of such application; if he be not ready, or if he shall fail to serve a copy of his complaint, affidavits and points and authorities, as herein required, the court shall dissolve the temporary restraining order.

DEFENDANT ENTITLED TO CONTINUANCE.—The defendant, however, shall be entitled, as of course, to one continuance for a reasonable period, if he desires it, to enable him to meet the application for the preliminary injunction.

COUNTER-AFFIDAVITS.—The defendant may, in response to such order to show cause, present affidavits relating to the granting of the preliminary injunction, and if such affidavits are served on the applicant at least two days prior to the hearing, the applicant shall not be entitled to any continuance on account thereof.

PRECEDENCE.—On the day upon which such order is made returnable, such hearing shall take precedence of all other matters on the calendar of said day, except older matters of the same character, and matters to which special precedence may be given by law. When the cause is at issue it shall be set for trial at the earliest possible date and shall take precedence of all other cases, except older matters of the same character, and matters to which special precedence may be given by law.

344. **Injunction after answer.**—An injunction cannot be allowed after the defendant has answered, unless upon notice or upon an order to show cause; but in such case the defendant may be restrained until the decision of the court or judge granting or refusing the injunction.

345. **Security upon injunction.**—On granting an injunction, the court or judge must require, except when it is granted on the application of the Government, or a wife against her husband, a written undertaking on the part of the applicant, with sufficient sureties,

to the effect that he will pay to the party enjoined such damages, not exceeding an amount to be specified, as such party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled thereto. Within five days after the service of the injunction, the person enjoined may except to the sufficiency of the sureties, and unless within five days thereafter, upon notice of not less than two days to the person enjoined, such sureties, or others in their place, justify before the judge or clerk of the court at a time and place designated in such notice, the order granting the injunction must be dissolved.

CROSS-REFERENCES

Undertaking delivered to defendant on dismissal, see section 415 of this title.

Qualifications of surietes, see sections 306 and 963 of this title.

Justification of sureties, see section 307 of this title.

Exception to sureties, see section 325 of this title.

346. Motion to vacate or modify injunction; procedure.—If an injunction is granted without notice to the person enjoined, he may apply, upon reasonable notice to the district court or judge, to dissolve or modify the same. The application may be made upon the complaint or the affidavit on which the injunction was granted, or upon affidavit on the part of the person enjoined, with or without the answer. If the application is made upon affidavits on the part of the person enjoined, but not otherwise, the person against whom the application is made may oppose the same by affidavits or other evidence in addition to that on which the injunction was granted.

CROSS-REFERENCES

Vacating orders made out of court, see section 861 of this title.

Appeal from refusal to dissolve, or modify injunction, see U.S. Code, title 28, section 227 (appendix, p. 982).

ARTICLE 4.—ATTACHMENT

Sec.
351. Attachment, when and in what cases may issue.
352. Affidavit for attachment.
353. Undertaking on attachment; exceptions to sureties.
354. Writ, to whom directed and what to state.
355. Shares of stock and debts due defendant, how attached and disposed of.
356. How real and personal property shall be attached.
357. Attachment lien on real property.
358. Attorney to give written instructions to marshal what to attach.
359. Garnishment, when garnishee liable to plaintiff.
360. Citation to garnishee to appear before the court or judge.
361. Inventory, how made; party refusing to give memorandum may be compelled to pay costs.
362. Perishable property, how sold; disposition of proceeds; accounts to be collected without suit.
363. Property attached may be sold as under execution, if the interests of the parties require.
Sec.
364. When property claimed by a third party, how tried.
365. If plaintiff obtains judgment, how satisfied.
366. When there remains a balance due, how collected.
367. When suits may be commenced on the undertaking.
368. If defendant recovers judgment, what the marshal is to deliver.
369. Proceedings to release attachments.
370. Requirements by court for release of attachment.
371. When a motion to discharge attachment may be made, and upon what grounds.
372. When motion made on affidavit, it may be opposed by affidavit.
373. When writ must be discharged.
374. When writ to be returned.
375. Release of real property from attachment.
376. Attachment of interest of defendant in estate of decedent.

351. Attachment, when and in what cases may issue.—The plaintiff, at the time of issuing the summons, or at any time afterward, may have the property of the defendant attached, as security for the satisfaction of any judgment that may be recovered, unless the defendant give security to pay such judgment, as in this article provided, in the following cases:

1. In an action upon a contract, express or implied, for the direct payment of money, where the contract is made or is payable in the Canal Zone, and is not secured by any mortgage or lien upon real or personal property, or any pledge of personal property, or, if originally so secured, such security has, without any act of the plaintiff, or the person to whom the security was given, become valueless.
2. In an action upon a contract, express or implied, against a defendant not residing in the Canal Zone.
3. In an action against a defendant, not residing in the Canal Zone, to recover a sum of money as damages, arising from an injury to property in the Zone, in consequence of negligence, fraud, or other wrongful act.

CROSS-REFERENCES

Garnishment, see sections 356, and 358 to 360 of this title.
Attachments in magistrates' courts, see sections 741 to 744 of this title.

352. Affidavit for attachment.—The clerk of the court must issue the writ of attachment upon receiving an affidavit by or on behalf of the plaintiff showing:

1. The facts specified in the next preceding section which entitle him to the writ;
2. The amount of the indebtedness claimed, over and above all legal set-offs or counterclaims, or the amount claimed as damages; and
3. That the attachment is not sought, and the action is not prosecuted, to hinder, delay, or defraud any creditor of the defendant.

353. Undertaking on attachment; exceptions to sureties.—Before issuing the writ, the clerk must require a written undertaking on the part of the plaintiff, in a sum not less than $200 and not exceeding the amount claimed by the plaintiff, with sufficient sureties, to the effect that if the defendant recovers judgment, the plaintiff will pay all costs that may be awarded to the defendant and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking, and that if the attachment is discharged on the ground that the plaintiff was not entitled thereto under section 351 of this title, the plaintiff will pay all damages which the defendant may have sustained by reason of the attachment, not exceeding the sum specified in the undertaking. At any time after the issuing of the attachment, but not later than five days after actual notice of the levy thereof, the defendant may except to the sufficiency of the sureties. If he fails to do so, he is deemed to have waived all objections to them. When excepted to, the plaintiff's sureties, upon notice to the defendant of not less than two or more than five days, must justify before the judge or clerk of the court in the same manner as upon bail on arrest; and upon failure to justify, or if others in their place fail to justify, at the time and place appointed, the judge or clerk must issue an order vacating the writ of attachment.

Cross-References

Justification of sureties, see sections 307 and 370 of this title.
Qualifications of sureties, see section 963 of this title.
Undertaking to discharge attachment, see section 370 of this title.
Counter-undertaking to prevent levy, see section 354 of this title.
Dismissal of action on, see section 415 of this title.
Amendment of undertaking for attachment, see section 373 of this title.

354. Writ, to whom directed and what to state.—The writ must be directed to the marshal, and must require him to attach and safely keep all the property of such defendant within the Canal Zone not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand against such defendant, the amount of which must be stated in conformity with the complaint, unless such defendant give him security by the undertaking of at least two sufficient sureties in an amount sufficient to satisfy such demand against such defendant, besides costs, or in an amount equal to the value of the property of such defendant which has been or is about to be attached; in which case to take such undertaking.

If more than one defendant.—In the event that the action is against more than one defendant, any defendant whose property has been or is about to be attached in such action may give the marshal such undertaking, and the marshal shall take the same, and such undertaking shall not subject such defendant to or be answerable for any demand against any other defendant, nor shall the marshal thereby be prevented from attaching or be obliged to release from attachment, any property of any other defendant: *Provided, however*, That such defendant, at the time of giving such undertaking to the marshal, shall file with the marshal, a statement, duly verified under oath, wherein such defendant shall aver and declare that the other defendant or defendants in the action in which said undertaking was given has or have not any interest or claim of any nature whatsoever in or to said property. Such statement must further contain the character of such defendant's title and the manner in which he acquired title to such attached property: *Provided further*, That before said attachment shall be released, the undertaking required by this section must be approved by the judge or, in the absence or disability of the judge, by the clerk of the court.

Cross-Reference

Suit on undertaking, see section 367 of this title.

355. Shares of stock and debts due defendant, how attached and disposed of.—The rights or shares which the defendant may have in the stock of any corporation or company, together with the interest and profit thereon, and all debts due such defendant, and all other property in the Canal Zone of such defendant not exempt from execution, may be attached, and if judgment be recovered, be sold to satisfy the judgment and execution.

Cross-References

Garnishment generally, see sections 358 to 360 of this title.
Mortgaged personal property, attachment of, see title 3, section 2268.
What is property, see section 8 of this title.

356. How real and personal property shall be attached.—The marshal to whom the writ is directed and delivered, must execute the same without delay, and if the undertaking mentioned in section 354 of this title be not given, as follows:

1. Real property must be attached, by filing with the registrar of property a copy of the writ, together with a description of the property attached, and a notice that it is attached; and by leaving a similar copy of the writ, description, and notice with an occupant of the property, if there is one; if not, then by posting the same in a conspicuous place on the property attached.

2. Real property, or an interest therein, belonging to the defendant, and held by any other person, must be attached, by filing with the registrar of property a copy of the writ, together with a description of the property, and a notice that such real property, and any interest of the defendant therein, held by or standing in the name of such other person (naming him), are attached; and by leaving with the occupant, if any, and with such other person, or his agent, if known and within the Canal Zone, or at the residence of either, if within the Canal Zone, a copy of the writ, with a similar description and notice. If there is no occupant of the property, a copy of the writ, together with such description and notice, must be posted in a conspicuous place upon the property. The registrar must index such attachment when filed, in the names, both of the defendant and of the person by whom the property is held.

3. Personal property, capable of manual delivery, must be attached by taking it into custody.

4. Stocks or shares, or interest in stocks or shares, of any corporation or company, must be attached by leaving with the president, or other head of the same, or the secretary, cashier, or other managing agent thereof, a copy of the writ, and a notice stating that the stock or interest of the defendant is attached, in pursuance of such writ.

5. Debts and credits and other personal property, not capable of manual delivery, must be attached by leaving with the person owing such debts, or having in his possession, or under his control, such credits and other personal property, or with his agent, a copy of the writ, and a notice that the debts owing by him to the defendant, or the credits and other personal property in his possession, or under his control, belonging to the defendant, are attached in pursuance of such writ, except in the case of attachment of growing crops, a copy of the writ, together with a description of the property attached, and a notice that it is attached, shall be recorded the same as in the attachment of real property.

CROSS-REFERENCES

Attachment lien, see title 3, section 2316.
Fraudulent transfers, see title 3, sections 2753, and 2761 to 2763.
Attachment of mortgaged property, see title 3, sections 2268 to 2270.

357. Attachment lien on real property.—The lien of the attachment on real property attaches and becomes effective upon the filing of a copy of the writ, together with a description of the property attached and a notice that it is attached, with the registrar of property: *Provided, however*, That in event that the marshal does not complete the execution of said writ in the manner prescribed in the next preceding section within a period of fifteen days next following said filing in the registrar's office then said lien shall cease at the expiration of said period of fifteen days.

EXPIRATION; EXTENSION.—The attachment whether heretofore levied or hereafter to be levied shall be a lien upon all real property attached for a period of three years after the date of levy unless sooner released or discharged as provided in this article, by dismissal of the action or by entry and docketing of judgment in the action. At the expiration of three years the lien shall cease and any proceeding or proceedings against the property under the attachment shall be barred: *Provided*, That upon motion of a party to the action, made not less than five nor more than sixty days before the expiration of said period of three years, the court in which the action is pending may extend the time of said lien for a period not exceeding two years from the date on which the original lien would expire, and the lien shall be extended for the period specified in the order upon the filing, before the expiration of the existing lien, of a certified copy of the order with the registrar of property. The lien may be extended from time to time in the manner herein prescribed.

CROSS-REFERENCES

Extinction of lien by sale of property, see title 3, section 2222.
Lien of officer attaching property, see title 3, section 2316.
Lien transfers no title, see title 3, section 2191.

358. Attorney to give written instructions to marshal what to attach.—Upon receiving information in writing from the plaintiff or his attorney, that any person has in his possession, or under his control, any credits or other personal property belonging to the defendant, or is owing any debt to the defendant, the marshal must serve upon such person a copy of the writ, and a notice that such credits, or other property or debts, as the case may be, are attached in pursuance of such writ.

359. Garnishment, when garnishee liable to plaintiff.—All persons having in their possession, or under their control, any credits or other personal property belonging to the defendant, or owing any debts to the defendant at the time of service upon them of a copy of the writ and notice, as provided in sections 357 and 358 of this title, shall be, unless such property be delivered up or transferred, or such debts be paid to the marshal, liable to the plaintiff for the amount of such credits, property, or debts, until the attachment be discharged, or any judgment recovered by him be satisfied.

360. Citation to garnishee to appear before the court or judge.—Any person owing debts to the defendant, or having in his possession or under his control, any credits or other personal property belonging to the defendant, may be required to attend before the court or judge, or in case of the absence or disability of the judge by the clerk of the court, and be examined on oath respecting the same. The defendant may also be required to attend for the purpose of giving information respecting his property, and may be examined on oath. The court or judge may, after such examination, order personal property, capable of manual delivery, to be delivered to the marshal on such terms as may be just, having reference to any liens thereon or claims against the same, and a memorandum to be given of all other personal property, containing the amount and description thereof.

CROSS-REFERENCE

Compare proceedings supplementary to execution, see sections 621 to 628 of this title.

361. Inventory, how made; party refusing to give memorandum may be compelled to pay costs.—The marshal must make a full inventory of the property attached, and return the same with the writ. To enable him to make such return as to debts and credits attached, he must request, at the time of service, the party owing the debt or having the credit to give him a memorandum, stating the amount and description of each; and if such memorandum be refused, he must return the fact of refusal with the writ. The party refusing to give the memorandum may be required to pay the costs of any proceedings taken for the purpose of obtaining information respecting the amounts and description of such debt or credit.

CROSS-REFERENCE

Return of writ generally, see section 374 of this title.

362. Perishable property, how sold; disposition of proceeds; accounts to be collected without suit.—If any of the property attached be perishable, the marshal must sell the same in the manner in which such property is sold on execution. The proceeds, and other property attached by him, must be retained by him to answer any judgment that may be recovered in the action, unless sooner subjected to execution upon another judgment recovered previous to the issuing of the attachment. Debts and credits attached may be collected by him, if the same can be done without suit. The marshal's receipt is a sufficient discharge for the amount paid.

CROSS-REFERENCE

Judgment, how satisfied, see section 365 of this ttile.

363. Property attached may be sold as under execution, if the interests of the parties require.—Whenever property has been taken by an officer under a writ of attachment, and it is made to appear satisfactorily to the court or the judge thereof that the interest of the parties to the action will be subserved by a sale thereof, the court or judge may order such property to be sold in the same manner as property is sold under an execution, and the proceeds to be deposited in the court to abide the judgment in the action. Such order can be made only upon notice to the adverse party or his attorney, in case such party has been personally served with a summons in the action.

364. When property claimed by a third party, how tried.—If any personal property attached be claimed by a third person as his property, the same rules shall prevail as to the contents and making of said claim, and as to the holding of said property, as in case of a claim after levy upon execution, as provided for in section 589 of this title.

365. If plaintiff obtains judgment, how satisfied.—If judgment be recovered by the plaintiff, the marshal must satisfy the same out of the property attached by him which has not been delivered to the defendant, or a claimant as hereinbefore provided, or subjected to execution on another judgment recovered previous to the issuing of the attachment, if it be sufficient for that purpose:

1. By paying to the plaintiff the proceeds of all sales of perishable property sold by him, or of any debts or credits collected by him, or so much as shall be necessary to satisfy the judgment:
2. If any balance remain due, and an execution shall have been issued on the judgment, he must sell under the execution so much of the property, real or personal, as may be necessary to satisfy the balance, if enough for that purpose remain in his hands. Notices of the sales must be given, and the sales conducted as in other cases of sales on execution.

CROSS-REFERENCES

Sales on execution, see sections 592 to 610 of this title.
Perishable property, how sold, see section 362 of this title.

366. When there remains a balance due, how collected.—If, after selling all the property attached by him remaining in his hands, and applying the proceeds, together with the proceeds of any debts or credits collected by him, deducting his fees, to the payment of the judgment, any balance shall remain due, the marshal must proceed to collect such balance, as upon an execution in other cases. Whenever the judgment shall have been paid, the marshal, upon reasonable demand, must deliver over to the defendant the attached property remaining in his hands, and any proceeds of the property attached unapplied on the judgment.

367. When suits may be commenced on the undertaking.—If the execution be returned, unsatisfied, in whole or in part, the plaintiff may prosecute any undertaking given pursuant to section 354 or section 370 of this title, or he may proceed, as in other cases, upon the return of an execution.

368. If defendant recovers judgment, what the marshal is to deliver.—If the defendant recovers judgment against the plaintiff and no appeal is perfected and undertaking executed, any undertaking received in the action, all the proceeds of sales and money collected by the marshal, and all the property attached, remaining in the marshal's hands, must be delivered to the defendant or his agent, the order of attachment be discharged, and the property released therefrom.

369. Proceedings to release attachments.—Whenever any defendant has appeared in the action, such defendant may, upon reasonable notice to the plaintiff, apply to the district court, or to the judge thereof, for an order to discharge the attachment wholly or in part; and upon the execution of the undertaking mentioned in the section next following, an order may be made releasing from the operation of the attachment, any or all of the property of such defendant attached; and all of the property so released and all of the proceeds of the sales thereof, must be delivered to such defendant upon the justification of the sureties on the undertaking, if required by the plaintiff. Such justification must take place within five days after the notice of the filing of such undertaking.

CROSS-REFERENCE

Appearance, see section 945 of this title.

370. Requirements by court for release of attachment.—Before making such order, the court or judge must require an undertaking on behalf of such defendant, by at least two sureties, to the effect that in case the plaintiff recovers judgment in the action against the defendant, by whom or in whose behalf such undertaking shall be given, such defendant will, on demand, redeliver the attached property so released to the proper officer, to be applied to the payment of any judgment in such action against said defendant, or in default thereof that such defendant and sureties will, on demand, pay to the plaintiff the full value of the property released not exceeding the amount of such judgment against such defendant. The court or judge making such order may fix the sum for which the undertaking must be executed, and if necessary in fixing such sum to know the value of the property released, the same may be appraised by one or more disinterested persons, to be appointed for that purpose. The sureties may be required to justify before the court or judge and the property attached cannot be released from the attachment without their justification if the same is required.

CROSS-REFERENCES

Undertaking to prevent attachment, see section 354 of this title.
Qualifications of sureties, see sections 306 and 963 of this title.
Justification of sureties, see section 307 of this title.

371. When a motion to discharge attachment may be made, and upon what grounds.—The defendant may also at any time, either before or after the release of the attached property, or before any attachment shall have been actually levied, apply, on motion, upon reasonable notice to the plaintiff, to the court, or to the judge thereof, that the writ of attachment be discharged on the ground that the same was improperly or irregularly issued.

CROSS-REFERENCE

Grounds for discharge, see section 373 of this title.

372. When motion made on affidavit, it may be opposed by affidavit.—If the motion be made upon affidavits on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavits or other evidence, in addition to those on which the attachment was made.

373. When writ must be discharged.—If upon such application, it satisfactorily appears that the writ of attachment was improperly or irregularly issued it must be discharged; provided that such attachment shall not be discharged if at or before the hearing of such application, the writ of attachment, or the affidavit, or undertaking upon which such attachment was based shall be amended and made to conform to the provisions of this article.

CROSS-REFERENCE

Grounds for discharge, see also section 371 of this title.

374. When writ to be returned.—The marshal must return the writ of attachment with the summons, if issued at the same time; otherwise, within twenty days after its receipt, with a certificate of his proceedings indorsed thereon or attached thereto; and whenever an order has been made discharging or releasing an attachment upon real property, a certified copy of such order may be filed in the office of the registrar of property.

CROSS-REFERENCES

Notices of attachment filed, see section 356 of this title.
Return of inventory with writ, see section 361 of this title.

375. Release of real property from attachment.—An attachment as to any real property may be released by a writing signed by the plaintiff, or his attorney, or the officer who levied the writ and acknowledged in the manner provided in chapter 22 of Title 3, The Civil Code; and upon the filing of such release, it is the duty of the registrar of property to note the same on the record of the copy of the writ on file in his office. Such attachment may also be released by an entry in the margin of the record thereof, in the registrar's office, in the manner provided for the discharge of mortgages under section 2247 of title 3.

CROSS-REFERENCE

For chapter 22, see title 3, sections 491 et seq.

376. Attachment of interest of defendant in estate of decedent.—The interest of a defendant in personal property belonging to the estate of a decedent, whether as heir, legatee, or devisee, may be attached by serving the personal representative of the decedent with a copy of the writ and a notice that said interest is attached. Such attachment shall not impair the powers of the representative over the property for the purposes of administration. A copy of said writ of attachment and of said notice shall also be filed in the office of the clerk of the court in which said estate is being administered and the personal representative shall report such attachment to the court when any petition for distribution is filed, and in the decree made upon such petition distribution shall be ordered to such heir, legatee, or devisee, but delivery of such property shall be ordered to the officer making the levy subject to the claim of such heir, legatee, or devisee, or any person claiming under him. The property shall not be delivered to the officer making the levy until the decree distributing such interest has become final.

ARTICLE 5.—RECEIVERS

Sec.
381. Appointment of receivers.
382. Appointment of receivers upon dissolution of corporation.
383. Receiver, restrictions on appointment; ex parte application, undertaking on.
384. Oath and undertaking of receiver.
385. Powers of receivers.
386. Investment of funds.
387. Notice of unclaimed funds in receiver's hands; disposition of.

381. Appointment of receivers.—A receiver may be appointed by the district court in an action pending therein, or by the judge of said court:

1. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured;

2. In an action by a mortgagee for the foreclosure of his mortgage and sale of the mortgaged property, where it appears that the mortgaged property is in danger of being lost, removed, or materially injured, or that the condition of the mortgage has not been performed, and that the property is probably insufficient to discharge the mortgage debt;

3. After judgment, to carry the judgment into effect;

4. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or in proceedings in aid of execution, when an execution has been returned unsatisfied, or when the judgment debtor refuses to apply his property in satisfaction of the judgment;

5. In the cases when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights;

6. In all other cases where receivers have heretofore been appointed by the usages of courts of equity.

CROSS-REFERENCE

Appeal from interlocutory order or decree appointing a receiver, or refusing an order to wind up a pending receivership or to take appropriate steps to accomplish the purposes thereof, see U.S. Code, title 28, section 227 (appendix, p. 982).

382. Appointment of receivers upon dissolution of corporations.—Upon the dissolution of any corporation having its principal place of business in the Canal Zone, the district court, on application of any creditor of the corporation, or of any stockholder or member thereof, may appoint one or more persons to be receivers or trustees of the corporation, to take charge of the estate and effects thereof and to collect the debts and property due and belonging to the corporation, and to pay the outstanding debts thereof, and to divide the moneys and other property that shall remain over among the stockholders or members.

383. Receiver, restrictions on appointment; ex parte application, undertaking on.—No party, or attorney of a party, or person interested in an action, or related to the judge of the court by consanguinity or affinity within the third degree, can be appointed receiver therein without the written consent of the parties, filed with the clerk. If a receiver is appointed upon an ex parte application, the court, before making the order, must require from the applicant an undertaking, with sufficient sureties, in an amount to be fixed by the court, to the effect that the applicant will pay to the defendant all damages he may sustain by reason of the appointment of such receiver and the entry by him upon his duties, in case the applicant shall have procured such appointment wrongfully, maliciously, or without sufficient cause; and the court may, in its discretion, at any time after said appointment, require an additional undertaking.

384. Oath and undertaking of receiver.—Before entering upon his duties, the receiver must be sworn to perform them faithfully, and with two or more sureties, approved by the court or judge, execute an undertaking to the Government of the Canal Zone in such sum as the court or judge may direct, to the effect that he will faithfully discharge the duties of receiver in the action and obey the orders of the court therein.

385. Powers of receivers.—The receiver has, under the control of the court, power to bring and defend actions in his own name, as receiver; to take and keep possession of the property, to receive rents, collect debts, to compound for and compromise the same, to make transfers, and generally to do such acts respecting the property as the court may authorize.

386. Investment of funds.—Funds in the hands of a receiver may be invested upon interest, by order of the court; but no such order can be made, except upon the consent of all the parties to the action.

387. Notice of unclaimed funds in receiver's hands; disposition of.—A receiver having any funds in his hands belonging to a person whose whereabouts are unknown to him, shall, before receiving his discharge as such receiver, publish a notice, in one or more newspapers of general circulation in the Canal Zone, at least once a week for four consecutive weeks, setting forth the name of the owner of any unclaimed funds, the last known place of residence or post office address of such owner and the amount of such unclaimed funds. Any funds remaining in his hands unclaimed for thirty days after the date of the last publication of such notice, shall be reported to the court, and upon order of the court, all such funds must be paid to the collector of the Panama Canal accompanied with a copy of the order, which must set forth the facts required in the notice herein provided. Such funds shall be paid out by the collector to the owner thereof or his order in such manner and upon such terms as the court may direct.

All costs and expenses connected with such advertising shall be paid out of the funds the whereabouts of whose owners are unknown.

ARTICLE 6.—DEPOSITS IN COURT; HANDLING OF FUNDS BY CLERK

Sec.
391. Deposit in court.
392. Manner of enforcing the order.
393. Money deposited deemed in registry of court.
394. Clerk to deposit sums over $200 in depository; disbursement; record of receipt and disbursement.
395. Maintenance of general deposit account; interest; commission; deposit of funds of $200 or less.
396. Judge to designate one or more depositories.
397. "Clerk" defined to include assistant and acting clerks.
398. Disposition of unclaimed funds by clerk.

391. Deposit in court.—When it is admitted by the pleadings, or shown upon the examination of a party to the action, that he has in his possession, or under his control, any money or other thing capable of delivery, which, being the subject of litigation, is held by him as trustee for another party, or which belongs or is due to another party, the court may order the same, upon motion, to be deposited in court or delivered to such party, upon such conditions as may be just, subject to the further direction of the court.

392. Manner of enforcing the order.—Whenever, in the exercise of its authority, a court has ordered the deposit or delivery of money, or other thing, and the order is disobeyed, the court, beside punishing the disobedience, may make an order requiring the marshal to take the money, or thing, and deposit or deliver it in conformity with the direction of the court.

CROSS-REFERENCE

Punishing the disobedience as contempt, see section 1163 of this title.

393. Money deposited deemed in registry of court.—Every sum of money deposited with a clerk of said court, by or for the use of any party, upon a judgment of the court or in a pending action or proceeding by virtue of the law or by direction of the court, as soon as deposited with the clerk, shall be deemed to be in the registry of the court.

394. Clerk to deposit sums over $200 in depository; disbursement; record of receipt and disbursement.—The clerk shall deposit in some depository designated by the judge of the district court, in the name of that court, every sum of money deposited in the registry of the court which exceeds $200, as soon as the same is received; and such money may thereafter be paid out only on a check, voucher, or order of the court, or the judge thereof, countersigned by the clerk of the court. The clerk in each division of the district court shall make a record showing the date of receipt, the amount received, from whom received, and the case in which any such money is deposited in the registry of the court; and the date, amount, and to whom the same was paid out.

395. Maintenance of general deposit account; interest; commission; deposit of funds of $200 or less.—The clerk shall maintain a general deposit account in a designated depository in which shall be deposited every cash fund exceeding $200 deposited in the registry of the court. Interest earned on such general account shall be retained by the clerk as his commission for receiving and caring therefor and shall be accounted for by him as fees of his office. No commission shall be charged by the clerk for handling any fund of $200 or less.

In any case, however, where any such fund is likely to remain in the registry of the court for six months or more, and where the parties so stipulate or the court so directs, such fund shall be deposited in a designated bank in a savings account at interest. The clerk's commission for caring for such fund in such case shall be paid only out of interest earned thereon, to the amount of one fourth of such interest. The remainder of such interest shall be deemed a part of such fund and shall be paid out on order or decree of the court according to the exigency of the case.

396. Judge to designate one or more depositories.—The judge of the district court shall designate one or more depositories in which money deposited in the registry of the court shall be deposited by the clerks.

397. "Clerk" defined to include assistant and acting clerks.—The words "clerk" as used in sections 393 to 396 of this title shall include the clerk of the district court, the assistant clerks thereof, and any acting clerk when performing the duties of the clerk or assistant clerk when they or any of them are absent on account of illness or vacation, or are unable to act from any cause.

398. Disposition of unclaimed funds by clerk.—Whenever the clerk of the district court has in his hands for a period of two years or more any fund or moneys belonging to any person or persons, which funds or moneys he has been unable to disburse to such person or persons because of his inability to locate them, or because of their refusal to accept the same, the said clerk shall upon order of the court turn the same over to the collector of the Panama Canal to be held and disposed of as hereinafter provided.

Any person claiming to be entitled to any amount so deposited with the collector may, within five years after such deposit, petition the court or judge for an order directing payment to the said claimant. A copy of such petition shall be served on the collector and thereafter no such amount shall be covered into the Treasury of the United States, as hereinafter directed, until so ordered by the court.

If no one claims the amount, as herein provided, or if a claim be made and disallowed and the court so directs, such amount devolves to the United States and shall be covered into the Treasury by the collector as miscellaneous receipts.

CHAPTER 11.—TRIAL AND JUDGMENT IN CIVIL ACTIONS

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ARTICLE 1.—JUDGMENT IN GENERAL

Sec.
411. Judgment defined.
412. Judgment may be for or against one of the parties.
413. Judgment may be against one party, and action proceed as to others.
414. The relief to be awarded to the plaintiff.
415. Dismissal of actions and entry of nonsuit.
416. Dismissal of action for failure to issue summons, when.
417. All other judgments are on the merits.
418. Dismissal of actions.

Section 411. Judgment defined.—A judgment is the final determination of the rights of the parties in an action or proceeding.

Cross-References

Judgment by confession, see section 1101 of this title.
Judgment by default, see section 421 of this title.
Effect of a judgment, see section 1934 of this title.
Judgment of nonsuit, see section 415 of this title.
Judgment on trial of issue of law by court, see section 504 of this title.
Judgment on trial generally, see section 541 of this title.
Order, defined, see section 931 of this title.

412. Judgment may be for or against one of the parties.—Judgment may be given for or against one or more of several plaintiffs, and for or against one or more of several defendants; and it may, when the justice of the case requires it, determine the ultimate rights of the parties on each side, as between themselves.

Cross-References

Striking out party, see section 275 of this title.
Bringing in fresh parties, see section 145 of this title.
Service on one defendant out of several, effect of, see section 167 of this title.
Joint debtors, proceedings against, see sections 901 et seq. of this title.
Joining persons severally liable on same instrument, see section 139 of this title.
Association, action against persons under name of, see section 144 of this title.

413. Judgment may be against one party, and action proceed as to others.—In an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment is proper.

Cross-References

Striking out party, see section 275 of this title.
Bringing in fresh parties, see section 145 of this title.
Service on one defendant out of several, effect of, see section 167 of this title.
Joint defendants, proceedings against, see sections 901 et seq. of this title.
Joining persons severally liable on same instrument, see section 139 of this title.

414. The relief to be awarded to the plaintiff.—The relief granted to the plaintiff, if there be no answer, cannot exceed that which he shall have demanded in his complaint; but in any other case, the court may grant him any relief consistent with the case made by the complaint and embraced within the issue.

415. Dismissal of actions and entry of nonsuit.—An action may be dismissed, or a judgment of nonsuit entered, in the following cases:

1. By the plaintiff, by written request to the clerk, filed with the papers in the case, at any time before the trial, upon payment of his costs; provided, a counterclaim has not been set up, or affirmative relief sought by the cross-complaint or answer of the defendant. If a provisional remedy has been allowed, the undertaking must thereupon be delivered by the clerk to the defendant, who may have his action thereon;
2. By either party, upon the written consent of the other;
3. By the court, when either party fails to appear on the trial, and the other party appears and asks for the dismissal;
4. By the court, when upon the trial and before the final submission of the case, the plaintiff abandons it;
5. By the court, upon motion of the defendant, when upon the trial the plaintiff fails to prove a sufficient case.

But no dismissal mentioned in subdivisions 1 and 2 hereof shall be entered unless upon written consent of his attorney of record, or if said consent is not obtained, upon order of the court, after notice to the attorney.

The dismissals mentioned in said subdivisions 1 and 2 hereof, when written consent of the attorney of record of the party requesting the dismissals are filed, may be made by entry in the clerk's register.

The dismissals mentioned in subdivisions 3, 4, and 5 of this section must be made by orders of the court entered upon the minutes thereof, and are effective for all purposes when so entered; but the clerk of the court must note such orders in his register of actions in the case.

CROSS-REFERENCES

Dismissal for want of prosecution, see section 418 of this title.
Dismissal in magistrate's court, see section 792 of this title.
Variance, fatal or otherwise, see sections 271 to 273 of this title.
Trial, either party may bring on, see section 437 of this title.

416. Dismissal of action for failure to issue summons, when.—No action heretofore or hereafter commenced shall be further prosecuted, and no further proceedings shall be had therein, and all actions heretofore or hereafter commenced must be dismissed by the court in which the same shall have been commenced, on its own motion, or on motion of any party interested therein, whether named in the complaint as a party or not, unless summons shall have issued within one year, and all such actions must be in like manner dismissed, unless the summons shall be served and return thereon made within three years after the commencement of said action. But all such actions may be prosecuted, if appearance has been made by the defendant or defendants, within said three years in the same manner as if summons had been issued and served: *Provided*, *That*, except in actions to partition or to recover possession of, or to enforce a lien upon, or to determine conflicting claims to, real or personal property, no dismissal shall be had under this section as to any defendant because of the failure to serve summons on him during his absence from the Canal Zone, or while he has secreted himself within the Canal Zone to prevent the service of summons on him.

417. All other judgments are on the merits.—In all cases other than those mentioned in sections 415, 416, and 418 of this title, judgment must be rendered on the merits.

418. Dismissal of actions.—The court may in its discretion dismiss any action for want of prosecution on its own motion or on motion of the defendant and after due notice to the plaintiff, whenever plaintiff has failed for two years after answer filed to bring such action to trial.

ARTICLE 2.—JUDGMENT UPON FAILURE TO ANSWER

421. Judgment if defendant fails to answer.—Judgment may be had, if the defendant fails to answer the complaint, as follows:

1. In an action arising upon contract for the recovery of money or damages only, if the defendant has been personally served and no answer has been filed with the clerk of the court within the time specified in the summons, or such further time as may have been granted, the clerk, upon application of the plaintiff, must enter the default of the defendant, and immediately thereafter enter judgment for the amount demanded in the complaint, including the costs, against the defendant, or against one or more of several defendants, in the cases provided for in section 167 of this title.

2. In other actions, if the defendant has been personally served and no answer has been filed with the clerk of the court within the time specified in the summons, or such further time as may have been granted, the clerk must enter the default of the defendant; and thereafter the plaintiff may apply to the court for the relief demanded in the complaint. If the taking of an account, or the proof of any fact, is necessary to enable the court to give judgment, or to carry the judgment into effect, the court may take the account or hear the proof, or may, in its discretion, order a reference for that purpose. And where the action is for the recovery of damages, in whole or in part, the court may order the damages to be assessed by a jury; or if, to determine the amount of damages, the examination of a long account is involved, by a reference as above provided.

3. In all actions where the service of the summons was by publication, the plaintiff, upon the expiration of the time for answering, may, upon proof of the publication, and that no answer has been filed, apply for judgment; and the court must thereupon require proof to be made of the allegations of the complaint; and if the defendant is not a resident of the Canal Zone, must require the plaintiff, or his agent, to be examined, on oath, respecting any payments that have been made to the plaintiff, or to anyone for his use, on account of any demand mentioned in the complaint, and may

render judgment for the amount which he is entitled to recover: *Provided*, That in actions involving merely the possession of real property where the complaint is verified and shows by proper allegations that no party to the action claims title to the real property involved, either by accession, transfer, will, or succession but only the possession thereof, the court may render judgment upon proof of occupancy by plaintiff and ouster by defendant.

Cross-References

As to validity of service of summons, see section 166 of this title.
Judgment by confession, see sections 1101 et seq., of this title.
Judgment generally, see sections 541 to 550 of this title.
Setting aside void judgment, see section 275 of this title.
Waiver of objections by failure to demur or answer, see section 215 of this title.
Actions when deemed pending, see section 955 of this title.
Mandamus not granted by default, see section 1055 of this title.
Default in action for forcible entry and detainer, see section 1150 of this title.
Default in magistrate's court, see sections 761 and 762 of this title.

ARTICLE 3.—ISSUES; MODE OF TRIAL AND POSTPONEMENTS

Sec.
431. Issue defined, and the different kinds.
432. Issue of law, how raised.
433. Issue of fact, how raised.
434. Issue of law, how tried.
435. Issues of fact, how tried.
436. Clerk must enter causes on the calendar, to remain until disposed of; when may be restored.
437. Parties or court may bring issue to trial.
438. Motion to postpone a trial for absence of evidence or a material witness.
439. In cases of adjournment a party may have the testimony of any witness taken.

431. Issue defined, and the different kinds.—Issues arise upon the pleadings when a fact or a conclusion of law is maintained by the one party and is controverted by the other. They are of two kinds—

1. Of law; and
2. Of fact.

Cross-References

Issues of law and fact, see sections 432 and 433 of this title.
Issues in magistrate's court, see sections 781 et seq., of this title.

432. Issue of law, how raised.—An issue of law arises upon a demurrer to the complaint or answer, or to some part thereof.

Cross-Reference

Issues of law, how raised in magistrate's court, see section 782 of this title.

433. Issue of fact, how raised.—An issue of fact arises—

1. Upon a material allegation in the complaint controverted by the answer; and
2. Upon new matters in the answer, except an issue of law is joined thereon.

Cross-Reference

Issues of fact in magistrate's court, how raised, see section 783 of this title.

434. Issue of law, how tried.—An issue of law must be tried by the court, unless it is referred upon consent.

CROSS-REFERENCES

Issues, by whom triable, see sections 73, 501 et seq.. and 1152 of this title.
Issues of law, how tried in magistrate's court, see section 784 of this title.

435. Issues of fact, how tried.—Issues of fact shall be tried by the court, except where a jury is demanded as provided in sections 441 and 442 of this title, or a reference is ordered as provided in this title.

436. Clerk must enter causes on the calendar, to remain until disposed of; when may be restored.—The clerk must enter causes upon the calendar of the court according to the date of issue. Causes once placed on the calendar must remain upon the calendar until finally disposed of: *Provided*, That causes may be dropped from the calendar by consent of parties, and may be again restored upon notice.

437. Parties or court may bring issue to trial.—Either party may bring an issue to trial or to a hearing, and, in the absence of the adverse party, unless the court, for good cause, otherwise direct, may proceed with his case, and take a dismissal of the action, or a verdict, or judgment, as the case may require: *Provided*, *however*, That if the issue to be tried is an issue of fact, proof must first be made to the satisfaction of the court that the adverse party has had five days' notice of such trial. The court or judge may on its own motion bring an issue to trial or to a hearing.

CROSS-REFERENCES

Dismissal, see section 415 of this title.
Surprise, setting aside judgment for, see section 275 of this title.
Surprise, new trial, see section 532 of this title.
Expediting actions for injuries to vessels or passengers in passing through locks, see title 2, section 10.

438. Motion to postpone a trial for absence of evidence or a material witness.—A motion to postpone a trial on the ground of the absence of evidence can only be made upon affidavit showing the materiality of the evidence expected to be obtained, and that due diligence has been used to procure it. The court may require the moving party, where application is made on account of the absence of a material witness, to state upon affidavit the evidence which he expects to obtain; and if the adverse party thereupon admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial must not be postponed.

CROSS-REFERENCE

Costs on continuance, see section 1008 of this title.

439. In cases of adjournment a party may have the testimony of any witness taken.—The party obtaining a postponement of a trial in the district court must, if required by the adverse party, consent that the testimony of any witness of such adverse party, who is in attendance, be then taken by deposition before the judge or clerk of the court, or before such notary public as the court may indicate, which must accordingly be done; and the testimony so taken may be read on the trial, with the same effect, and subject to the same objections, as if the witnesses were produced.

CROSS-REFERENCE

Depositions generally, see section 2081 et seq., of this title.

ARTICLE 4.—TRIAL BY JURY

A. RIGHT TO JURY TRIAL

Sec.
441. Right to trial by jury.
442. Request for jury.

B. FORMATION OF JURY

451. Peremptory challenges, civil cases.
452. Challenges of jurors for cause.
453. Challenges, how tried.
454. Jury to be sworn.

C. CONDUCT OF TRIAL

461. Order of proceeding on trial.
462. Charge to the jury; court must furnish, in writing, upon request, the points of law contained therein.
463. Special instructions.
464. View by jury of the premises.
465. Admonition when jury permitted to separate.
466. Jury may take with them certain papers.
467. Deliberation of jury, how conducted.

Sec.
468. May come into court for further instructions.
469. Proceedings if juror becomes sick.
470. When prevented from giving verdict, the cause may be again tried.
471. While jury are absent, court may adjourn from time to time; sealed verdict.
472. Verdict, how declared; form of; polling the jury.
473. Proceedings when verdict is informal.

D. THE VERDICT

481. General and special verdicts defined.
482. When a general or special verdict may be rendered.
483. Verdict in actions for recovery of money or on establishing counterclaim.
484. Verdict in actions for the recovery of specific personal property.
485. Entry of verdict.
486. Judgment notwithstanding verdict.

A. RIGHT TO JURY TRIAL

441. Right to trial by jury.—A jury shall be had, on the demand of either party, in any civil case at law originating in the district court.

CROSS-REFERENCE

Juries and jury trials, see also title 7, sections 33 to 35.

442. Request for jury.—In the trial of any civil cause where a jury trial may be demanded, if either party shall desire a jury, request therefor must be made at the time such cause is assigned for trial.

B. FORMATION OF JURY

451. Peremptory challenges, civil cases.—Either party may challenge the jurors, but where there are several parties on either side, they must join in the challenge before it can be made. The challenges are to individual jurors and are either peremptory or for cause. Each party is entitled to four peremptory challenges. If no peremptory challenges are taken until the panel is full, they must be taken by the parties alternately, commencing with the plaintiff, and each party shall be entitled to have the panel full before exercising any peremptory challenge.

CROSS-REFERENCE

Selection, summoning, serving, and compensation of jurors, see title 7, sections 33 to 35.

452. Challenges of jurors for cause.—Challenges for cause may be taken on one or more of the following grounds:

1. A want of any of the qualifications prescribed to render a person competent as a juror.

2. Consanguinity or affinity within the fourth degree to any party, or to an officer of a corporation, which is a party.

3. Standing in the relation of guardian and ward, master and servant, employer and clerk, or principal and agent, or debtor and creditor, to either party, or to an officer of a corporation which is a party, or being a member of the family of either party; or a partner in business with either party; or surety on any bond or obligation for either party, or being the holder of bonds or shares of the capital stock of a corporation which is a party.

4. Having served as a juror in a civil action or been a witness on a previous trial between the same parties, for the same cause of action; or having served as a juror within one year previously in any civil action or proceeding in which either party was plaintiff or defendant.

5. Interest on the part of the juror in the event of the action, or in the main question involved in the action.

6. Having an unqualified opinion or belief as to the merits of the action founded upon knowledge of its material facts or of some of them.

7. The existence of a state of mind in the juror evincing enmity against or bias to either party.

8. That he is a party to an action pending in the court for which he is drawn and which action is set for trial before the panel of which he is a member.

CROSS-REFERENCE

Jurors as witnesses, see section 1905 of this title.

453. Challenges, how tried.—Challenges for cause must be tried by the court. The juror challenged and any other person may be examined as a witness on the trial of the challenge.

454. Jury to be sworn.—As soon as the jury is completed, an oath must be administered to the jurors, in substance, that they and each of them will well and truly try the matter in issue between ———, the plaintiff, and ———, defendant, and a true verdict render according to the evidence.

CROSS-REFERENCE

Administration of oaths generally, see sections 2171 to 2175 of this title.

C. CONDUCT OF TRIAL

461. Order of proceeding on trial.—When the jury has been sworn, the trial must proceed in the following order, unless the judge, for special reasons, otherwise directs:

1. The plaintiff, after stating the issue and his case, must produce the evidence on his part;

2. The defendant may then open his defense, and offer his evidence in support thereof;

3. The parties may then respectively offer rebutting evidence only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original case;

4. When the evidence is concluded, unless the case is submitted to the jury on either side or on both sides without argument, the plaintiff must commence and may conclude the argument;

5. If several defendants, having separate defenses, appear by different counsel, the court must determine their relative order in the evidence and argument;

6. The court may then charge the jury.

CROSS-REFERENCES

Amendments, see section 275 of this title.
Either party may bring on trial, see section 437 of this title.
Nonsuits, see section 415 of this title.
Proof necessary to make out case, see sections 1885 and 1887 of this title.
Variance, see sections 271 to 273 of this title.
View by jury, see section 464 of this title.
Order of proof, see section 2111 of this title.
Admissibility of evidence is for court, see section 2182 of this title.
Allegations, material, only, need be proved, see sections 1887 and 2031 of this title.
Relevancy of evidence, see sections 1886 and 1888 of this title.
Witness must answer, see section 2142 of this title.
Cross-examination, see section 2114 of this title.
Excluding witnesses from court room, see section 2112 of this title.
Expert witnesses, see section 1888 (9) of this title.
Impeachment of witnesses, and evidence of good character, see sections 2118 to 2122 of this title.
Interpreters, see section 1906 of this title.
Leading questions, see section 2115 of this title.
Mode of interrogation of witnesses, see section 2113 of this title.
Oaths, see sections 2171 to 2175 of this title.
Protection of witnesses, see section 2143 of this title.
Refreshing memory, see section 2116 of this title.
Writing shown to witness, other side may inspect, see section 2123 of this title.

462. Charge to the jury; court must furnish, in writing, upon request, the points of law contained therein.—In charging the jury the court may state to them all matters of law which it thinks necessary for their information in giving their verdict; and, if it state the testimony of the case, it must inform the jury that they are the exclusive judges of all questions of fact. The court must furnish to either party, at the time, upon request, a statement in writing of the points of law contained in the charge, or sign, at the time, a statement of such points prepared and submitted by the counsel of either party.

CROSS-REFERENCES

Instructions as to the evidence, see section 2131 of this title.
Matters of law, court stating in charge, see sections 532, 2131, and 2182 of this title.

463. Special instructions.—Where either party asks special instructions to be given to the jury, the court must either give such instruction, as requested, or refuse to do so, or give the instruction with a modification, in such manner that it may distinctly appear what instructions were given in whole or in part.

CROSS-REFERENCE

Exceptions, see section 521 of this title.

464. View by jury of the premises.—When, in the opinion of the court, it is proper for the jury to have a view of the property which is the subject of litigation, or of the place in which any material fact occurred, it may order them to be conducted, in a body, under the charge of an officer, to the place, which shall be shown to them by some person appointed by the court for that purpose. While the jury are thus absent, no person, other than the person so appointed, shall speak to them on any subject connected with the trial.

465. Admonition when jury permitted to separate.—If the jury are permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court that it is their duty not to converse with, or suffer themselves to be addressed by any other person, on any subject of the trial, and that it is their duty not to form or express an opinion thereon until the case is finally submitted to them.

466. Jury may take with them certain papers.—Upon retiring for deliberation the jury may take with them all papers which have been received as evidence in the cause, except depositions or copies of such papers as ought not, in the opinion of the court, to be taken from the person having them in possession; and they may also take with them notes of the testimony or other proceedings on the trial, taken by themselves or any of them, but none taken by any other person.

467. Deliberation of jury, how conducted.—When the case is finally submitted to the jury, they may decide in court or retire for deliberation; if they retire, they must be kept together in some convenient place, under charge of an officer, until at least three fourths of them agree upon a verdict or are discharged by the court. Unless by order of the court, the officer having them under his charge must not suffer any communication to be made to them, or make any himself, except to ask them if they or three fourths of them are agreed upon a verdict, and he must not, before their verdict is rendered, communicate to any person the state of their deliberations or the verdict agreed upon.

CROSS-REFERENCE

Misconduct of jury, see section 532 of this title.

468. May come into court for further instructions.—After the jury have retired for deliberation, if there be a disagreement between them as to any part of the testimony, or if they desire to be informed of any point of law arising in the cause, they may require the officer to conduct them into court. Upon their being brought into court, the information required must be given in the presence of, or after notice to, the parties or counsel.

469. Proceedings if juror becomes sick.—If, after the impaneling of the jury, and before verdict, a juror becomes sick, so as to be unable to perform his duty, the court may order him to be discharged. In that case the trial may proceed with the other jurors with the consent of the parties, or another juror may be sworn and the trial begin anew or the jury may be discharged and a new jury then or afterwards impaneled.

470. When prevented from giving verdict, the cause may be again tried.—In all cases where the jury are discharged, or prevented from giving a verdict, by reason of accident or other cause, during the progress of the trial, or after the cause is submitted to them, the action may be again tried immediately, or at a future time, as the court may direct.

471. While jury are absent, court may adjourn from time to time; sealed verdict.—While the jury are absent the court may adjourn from time to time, in respect to other business; but it is nevertheless open for every purpose connected with the cause submitted to the jury, until a verdict is rendered or the jury discharged. The court may direct the jury to bring in a sealed verdict, at the opening of the court, in case of an agreement during a recess or adjournment for the day.

472. Verdict, how declared; form of; polling the jury.—When the jury, or three fourths of them, have agreed upon a verdict, they must be conducted into court, their names called by the clerk, and the verdict rendered by their foreman; the verdict must be in writing, signed by the foreman, and must be read by the clerk to the jury, and the inquiry made whether it is their verdict. Either party may require the jury to be polled, which is done by the court or clerk asking each juror if it is his verdict; if upon such inquiry or polling, more than one fourth of the jurors disagree thereto, the jury must be sent out again, but if no such disagreement be expressed, the verdict is complete and the jury discharged from the case.

473. Proceedings when verdict is informal.—When the verdict is announced, if it is informal or insufficient, in not covering the issue submitted, it may be corrected by the jury under the advice of the court, or the jury may be again sent out.

D. THE VERDICT

481. General and special verdicts defined.—The verdict of a jury is either general or special. A general verdict is that by which they pronounce generally upon all or any of the issues, either in favor of the plaintiff or defendant; a special verdict is that by which the jury find the facts only, leaving the judgment to the court. The special verdict must present the conclusions of fact as established by the evidence, and not the evidence to prove them; and those conclusions of fact must be so presented as that nothing shall remain to the court but to draw from them conclusions of law.

Cross-Reference

Misconduct of jury, see section 532 of this title.

482. **When a general or special verdict may be rendered.**—In an action for the recovery of money only, or specific real property, the jury, in their discretion, may render a general or special verdict. In all other cases the court may direct the jury to find a special verdict in writing upon all, or any of the issues, and in all cases may instruct them, if they render a general verdict, to find upon particular questions of fact, to be stated in writing, and may direct a written finding thereon. The special verdict or finding must be filed with the clerk and entered upon the minutes. Where a special finding of facts is inconsistent with the general verdict, the former controls the latter, and the court must give judgment accordingly.

483. **Verdict in actions for recovery of money or on establishing counterclaim.**—When a verdict is found for the plaintiff in an action for the recovery of money, or for the defendant, when a counterclaim for the recovery of money is established, exceeding the amount of the plaintiff's claim as established, the jury must also find the amount of the recovery.

484. **Verdict in actions for the recovery of specific personal property.**—In an action for the recovery of specific personal property, if the property has not been delivered to the plaintiff, or the defendant, by his answer, claim a return thereof, the jury, if their verdict be in favor of the plaintiff, or if being in favor of defendant, they also find that he is entitled to a return thereof, must find the value of the property, and, if so instructed, the value of specific portions thereof, and may at the same time assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the taking or detention of such property.

CROSS-REFERENCE

ury must find, etc., see section 544 of this title.

485. **Entry of verdict.**—Upon receiving a verdict, an entry must be made by the clerk in the minutes of the court, specifying the time of trial, the names of the jurors and witnesses, and setting out the verdict at length; and where special verdict is found, either the judgment rendered thereon, or if the case be reserved for argument or further consideration, the order thus reserving it.

CROSS-REFERENCE

Entry of judgment upon verdict, time of, see 541 of this title.

486. **Judgment notwithstanding verdict.**—When a motion for a directed verdict, which should have been granted, has been denied and a verdict rendered against the moving party, the court, at any time before the entry of judgment, either of its own motion or on motion of the aggrieved party, shall render judgment in favor of the aggrieved party notwithstanding the verdict.

A motion for judgment notwithstanding such verdict may also be made in the alternative form, asking therefor and reserving, if that be denied, the right to apply for a new trial. If the motion for a directed verdict or for judgment notwithstanding the verdict be denied, the trial court on motion for new trial may order judgment to be so entered when it appears from the whole evidence that a verdict should have been so directed at the trial.

ARTICLE 5.—TRIAL BY COURT

Sec.
501. Upon trial by court, decision to be in writing and filed within 30 days.
502. Facts found and conclusions of law must be separately stated; judgment on.
503. Waiving findings of fact.
504. Proceedings after determination of issue of law.

501. Upon trial by court, decision to be in writing and filed within thirty days.—Upon the trial of a question of fact by the court, its decision must be given in writing and filed with the clerk within thirty days after the cause is submitted for decision.

502. Facts found and conclusions of law must be separately stated; judgment on.—In giving the decision, the facts found and the conclusions of law must be separately stated. Judgment upon the decision must be entered accordingly.

503. Waiving findings of fact.—Findings of fact may be waived by several parties to an issue of fact:

1. By failing to appear at the trial;
2. By consent in writing filed with the clerk;
3. By oral consent in open court, entered in the minutes.

In all cases where the court directs a party to prepare findings, a copy of said proposed findings shall be served upon all the parties to the action at least five days before findings shall be signed by the court, and the court shall not sign any findings therein prior to the expiration of such five days.

504. Proceedings after determination of issue of law.—On a judgment for the plaintiff upon an issue of law, he may proceed in the manner prescribed by the first two subdivisions of section 421 of this title, upon the failure of the defendant to answer. If judgment be for the defendant upon an issue of law, and the taking of an account, or the proof of any fact, be necessary to enable the court to complete the judgment, a reference may be ordered, as in that section provided.

Cross-References

Issue of law, see section 432 of this title.
When a bar, see section 1934 of this title.
Leave to answer after defendants' demurrer overruled, see section 274 of this title.
Judgment generally, see section 541 of this title.
Judgment by default, see section 421 of this title.

ARTICLE 6.—REFERENCES AND TRIALS BY REFEREES

Sec.
511. Reference ordered upon agreement of parties, in what cases.
512. Reference ordered on motion, in what cases.
513. A party may object; grounds of objection.
514. Objections, how disposed of.
515. Referees to report within 20 days.
516. Effect of referee's finding.
517. How excepted to, etc.

511. Reference ordered upon agreement of parties, in what cases.—A reference may be ordered upon the agreement of the parties filed with the clerk, or entered in the minutes:

1. To try any or all of the issues in an action or proceeding, whether of fact or of law, and to report a finding and judgment thereon;
2. To ascertain a fact necessary to enable the court to determine an action or proceeding.

CROSS-REFERENCES

Referee's fees, see section 990 of this title.
Two of three referees may act, see section 959 of this title.

512. Reference ordered on motion, in what cases.—When the parties do not consent, the court may, upon the application of either, or of its own motion, direct a reference in the following cases:

1. When the trial of an issue of fact requires the examination of a long account on either side; in which case the referees may be directed to hear and decide the whole issue, or report upon any specific question of fact involved therein;
2. When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect;
3. When a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of the action;
4. When it is necessary for the information of the court in a special proceeding.

CROSS-REFERENCES

Reference on proceedings supplementary to execution, see section 621 of this title.
Reference in mandamus, see section 1059 of this title.

513. A party may object; grounds of objection.—A party may object to the appointment of any person as referee, on one or more of the following grounds:

1. A want of any of the qualifications prescribed to render a person competent as a juror;
2. Consanguinity or affinity, within the third degree, to either party, or to an officer of a corporation which is a party, or to the judge of the court in which the appointment shall be made;
3. Standing in the relation of guardian and ward, master and servant, employer and clerk, or principal and agent, to either party; or being a member of the family of either party; or a partner in business with either party; or security on any bond or obligation for either party;
4. Having served as a juror or been a witness on any trial between the same parties for the same cause of action;
5. Interest on the part of such person in the event of the action, or in the main question involved in the action;
6. Having formed or expressed an unqualified opinion or belief as to the merits of the action;
7. The existence of a state of mind in such person evincing enmity against or bias to either party.

CROSS-REFERENCE

Consanguinity or affinity, see title 3, section 637.

514. Objections, how disposed of.—The objections taken to the appointment of any person as referee must be heard and disposed of by the court. Affidavits may be read and witnesses examined as to such objections.

515. Referees to report within twenty days.—The referees or commissioner must report their findings in writing to the court within twenty days after the testimony is closed and the facts found and conclusions of law must be separately stated therein.

Cross-References

Two of three referees may act, see section 959 of this title.
Enforcing order, see section 23 of this title.

516. Effect of referee's finding.—The finding of the referee or commissioner upon the whole issue must stand as the finding of the court, and upon filing of the finding with the clerk of the court, judgment may be entered thereon in the same manner as if the action had been tried by the court.

Cross-Reference

Force and effect of findings, see also section 1487 of this title.

517. How excepted to, etc.—The findings of the referee or commissioner may be excepted to and reviewed in like manner as if made by the court. When the reference is to report the facts, the finding reported has the effect of a special verdict.

ARTICLE 7.—PROVISIONS RELATING TO TRIALS IN GENERAL

A. Exceptions

Sec.
521. "Exception" defined; when taken.
522. Verdict or order in absence of party, deemed excepted to.
523. Exception, form of.
524. Bill of exceptions, when to be presented, etc.
525. Bill of exceptions, preparation and settlement; time of filing.
526. Exceptions after judgment.
527. Proceedings if judge refuses to allow bill of exceptions.
528. Settlement of bill of exceptions.

B. New Trials

Sec.
531. New trial defined.
532. When new trial may be granted.
533. Manner of making application for new trial.
534. Notice of motion, upon whom to be served, and what to contain.
535. Time of hearing motion; reference to pleadings, orders and evidence at hearing.
536. Vacation of judgment.
537. Notice of intention to move to vacate judgment; time for making motion.

A. EXCEPTIONS

521. "Exception" defined; when taken.—An exception is an objection upon a matter of law to a decision made, either before or after judgment, by a court, tribunal, judge, or other judicial officer, in an action or proceeding. The exception must be taken at the time the decision is made, except as provided in the section next following.

522. Verdict or order in absence of party, deemed excepted to.—The verdict of the jury, the final decision in an action or proceeding, an interlocutory order or decision, finally determining the rights of the parties, or some of them, an order or decision from which an appeal may be taken, an order sustaining or overruling a demurrer, allowing or refusing to allow an amendment to a pleading, striking out a pleading or a portion thereof, refusing a continuance, an order made upon ex parte application, giving an instruction, although no objection to such instruction was made, refusing to give an instruction, modifying an instruction requested, an order or decision made in the absence of the party or an order granting or denying a nonsuit or a motion to strike out evidence or testimony and a ruling sustaining or overruling an objection to evidence, are deemed to have been excepted to.

523. Exception, form of.—No particular form of exception is required, but when the exception is to the verdict or decision, upon the ground of the insufficiency of the evidence to justify it, the objection must specify the particulars in which such evidence is alleged to be insufficient. The objection must be stated, with so much of the evidence or other matter as is necessary to explain it, and no more. Only the substance of the reporter's notes of the evidence shall be stated. Documents on file in the action or proceeding may be copied, or the substance thereof stated, or a reference thereto sufficient to identify them may be made.

524. Bill of exceptions, when to be presented, etc.—A bill containing the exception to any decision may be presented to the court or judge for settlement at any time after the decision is made, but the same must be presented within ten days after written notice of making such decision, and after having been settled must be signed by the judge and filed with the clerk. When the decision excepted to is made by a tribunal other than a court, or by a judicial officer, the bill of exceptions must be presented to and settled and signed by such tribunal or officer.

525. Bill of exceptions, preparation and settlement; time of filing.—When a party desires to have exceptions taken at a trial settled in a bill of exceptions, he may, at any time thereafter, and within ten days after the entry of judgment, if the action was tried with a jury, or after receiving notice of the entry of judgment, if the action was tried without a jury, or if proceedings on motion for a new trial be pending, within ten days after notice of decision denying said motion, or other determination thereof, or such further time as the court in which the action is pending, or the judge thereof, may allow, prepare the draft of a bill, and serve the same, or a copy thereof, upon the adverse party.

CONTENTS OF DRAFT.—Such draft must contain all the exceptions and proceedings taken upon which the party relies, and may contain all matters reviewable on the same appeal whether occurring at the trial or on motion for a new trial. It may also contain a statement of any matters occurring upon the trial, in the presence of the court, showing any of the matters mentioned in subdivisions 1 and 2 of section 532 of this title.

ADVERSE PARTY MAY PROPOSE AMENDMENTS.—Within ten days after such service, the adverse party may propose amendments thereto, and serve the same or a copy thereof, upon the other party.

DELIVERY TO THE JUDGE.—The proposed bill and amendments must, within ten days thereafter be presented by the party seeking the settlement of the bill, to the judge who tried or heard the case, upon five days' notice to the adverse party, or be delivered to the clerk of the court for the judge. When received by the clerk he must immediately deliver them to the judge, if he is in the Canal Zone; if he is absent from the Zone, and either party desires the paper to be forwarded to the judge, the clerk must, upon notice in writing of such party, immediately forward them by mail, or other safe channel; if not thus forwarded the clerk must deliver them to the judge immediately after his return to the Zone.

JUDGE TO DESIGNATE TIME OF SETTLING.—When received from the clerk, the judge must designate the time at which he will settle the bill, and the clerk must immediately notify the parties of such designation. At the time designated the judge must settle the bill. The bill must thereupon be engrossed and presented to the judge to be certified, by the party presenting it, within ten days.

ACTION TRIED BEFORE REFEREE.—If the action was tried before a referee, the proposed bill, with the amendments, if any, must be presented to such referee for settlement within ten days after service of the amendments, upon notice of five days to the adverse party, and thereupon the referee must settle the bill. If no amendments are served or if served are allowed, the proposed bill may be presented, with the amendments, if any, to the judge or referee, for settlement without notice to the adverse party.

JUDGE TO STRIKE OUT USELESS MATTER.—It is the duty of the judge or referee, in settling the bill, to strike out of it all redundant and useless matter, so that the exceptions and proceedings may be presented as briefly as possible. When settled, the bill must be signed by the judge or referee, with his certificate to the effect that the same is allowed, and must then be filed with the clerk.

NOT TO BE SERVED ON PARTY WHEN DEFAULT ENTERED.—No bill of exceptions, notice of appeal, or notice or paper, other than amendments to the pleadings or an amended pleading, need be served upon any party whose default has been duly entered, or who has not appeared in the action or proceeding.

526. Exceptions after judgment.—Exceptions to any decision made after judgment may be presented to the judge at the time of such decision, and be settled or noted, as provided in section 524 of this title, or a bill thereof may be presented and settled afterward, as provided in section 525 of this title, and within like periods after written notice of entry of the order, upon appeal from which such decision is reviewable.

527. Proceedings if judge refuses to allow bill of exceptions.—If the judge in any case refuses to allow a bill of exceptions in accordance with the facts, the party desiring the bill settled may apply by petition to the United States Circuit Court of Appeals for the Fifth Circuit to prove the same; the application may be made in the mode and manner, and under such regulations as that court may prescribe; and the bill, when proven, must be certified by the court as correct, and filed with the clerk of the court in which the action was tried, and when so filed it has the same force and effect as if settled by the judge who tried the cause.

528. Settlement of bill of exceptions.—When the decision excepted to was made by any judicial officer, other than a judge, the bill of exceptions shall be presented to such judicial officer, and be settled and signed by him in the same manner as it is required to be presented to, settled, and signed by a court or judge. A judge or judicial officer may settle and sign a bill of exceptions after, as well as before, he ceases to be such judge or judicial officer. If such judge or judicial officer, before the bill of exceptions is settled, dies, is removed from office, becomes disqualified, is absent from the Canal Zone, or refuses to settle the bill of exceptions, or if no mode is provided by law for the settlement of the same, it shall be settled and certified in such manner as the Circuit Court of Appeals may, by its order or rules, direct.

B. NEW TRIALS

531. New trial defined.—A new trial is a reexamination of an issue of fact in the same court after a trial and decision by a jury, court, or referee.

532. When new trial may be granted.—The former verdict or other decision may be vacated and a new trial granted, on the application of the party aggrieved, for any of the following causes, materially affecting the substantial rights of such party:

1. Irregularity in the proceedings of the court, jury, or adverse party, or any order of the court or abuse of discretion by which either party was prevented from having a fair trial;
2. Misconduct of the jury; and whenever any one or more of the jurors have been induced to assent to any general or special verdict, or to a finding on any question submitted to them by the court, by a resort to the determination of chance, such misconduct may be proved by the affidavit of any one of the jurors;
3. Accident or surprise, which ordinary prudence could not have guarded against;
4. Newly discovered evidence, material for the party making the application, which he could not, with reasonable diligence, have discovered and produced at the trial;
5. Excessive damages, appearing to have been given under the influence of passion or prejudice;
6. Insufficiency of the evidence to justify the verdict or other decision, or that it is against law;
7. Error in law, occurring at the trial and excepted to by the party making the application.

When a new trial is granted upon the ground of the insufficiency of the evidence to sustain the verdict, the order shall so specify; otherwise, on appeal from such order, it will be presumed that the order was not based upon that ground.

533. Manner of making application for new trial.—When the application is made for a cause mentioned in subdivisions 1 to 4 of the next preceding section, it must be made upon affidavits; otherwise it must be made on the minutes of the court.

534. Notice of motion, upon whom to be served, and what to contain.—The party intending to move for a new trial must, either before the entry of judgment or within ten days after receiving notice of the entry of the judgment, or within ten days after verdict, if the trial was by jury, file with the clerk and serve upon the adverse party a notice of his intention to move for a new trial, designating the grounds upon which the motion will be made and whether the same will be made upon affidavits or the minutes of the court or both. The time above specified shall not be extended by order or stipulation. If the motion is to be made upon affidavits, the moving party must, within ten days after serving the notice, or such further time as the court in which the action is pending, or the judge thereof, may allow (but not to exceed twenty days' additional time) file such affidavits with the clerk and serve a copy thereof upon the adverse party, who shall have ten days thereafter, or such further time as the court may allow (not exceeding twenty days' additional time) to file counter-affidavits and serve a copy thereof upon the moving party.

Cross-Reference

Extension of time, see section 960 of this title.

535. Time of hearing motion; reference to pleadings, orders and evidence at hearing.—The motion for a new trial must be heard at the earliest practicable time after the filing of affidavits and counter-affidavits, in case the motion is made on affidavits, in other cases after the filing of the notice. On such hearing reference may be had in all cases to the pleadings and orders of the court on file, and when the motion is made on the minutes, reference may also be had to any depositions and documentary evidence offered at the trial and to the report of the proceedings on the trial taken by the reporter, or to any certified transcript, of such report, or if there be no such report or certified transcript, to such proceedings occurring at the trial as are within the recollection of the judge; when the proceedings at the trial have been reported, but the reporter's notes have not been transcribed, the reporter must, upon request of the court, or either party, attend the hearing of the motion, and shall read his notes, or such parts thereof as the court, or either party, may require.

New trial hearing has precedence.—The hearing and disposition of the motion for a new trial shall have precedence over all other matters except criminal cases, probate matters, and cases actually on trial, and it shall be the duty of the court to determine the same at the earliest possible moment.

Motion to be passed on within two months.—The power of the court to pass on motion for a new trial shall expire within two months after the verdict of the jury or service on the moving party of notice of the entry of the judgment. If such motion is not determined within said two months, the effect shall be a denial of the motion without further order of the court.

536. Vacation of judgment.—A judgment or decree of the district court, when based upon findings of fact made by the court, or the special verdict of a jury, may, upon motion of the party aggrieved, be set aside and vacated by the court, and another and different judgment entered, for either of the following causes, materially affecting the substantial rights of such party and entitling him to a different judgment:

1. Incorrect or erroneous conclusions of law not consistent with or not supported by the findings of fact; and in such case when the judgment is set aside, the conclusions of law shall be amended and corrected.
2. A judgment or decree not consistent with or not supported by the special verdict.

537. Notice of intention to move to vacate judgment; time for making motion.—The party intending to make the motion mentioned in the next preceding section must, within ten days after notice of the entry of judgment, serve upon the adverse party and file with the clerk of the court a notice of his intention, designating the grounds upon which, and the time at which the motion will be made, and specifying the particulars in which the conclusions of law are not consistent with the finding of facts, or in which the judgment or decree is not consistent with the special verdict. The time designated for the making of the motion must not be more than sixty days from the time of the service of the notice.

ARTICLE 8.—MANNER OF GIVING AND ENTERING JUDGMENT

Sec.
541. Judgment to be entered in twenty-four hours, etc.
542. Case may be brought before the court for argument.
543. When counterclaim established exceeds plaintiff's demand.
544. In replevin, judgment to be in the alternative, and with damages; gold coin or currency judgment.
545. Clerk to enter abstract of judgment.
546. If a party die after verdict, judgment may be entered.
547. Judgment roll, what constitutes.
548. Clerk to enter judgment.
549. Docket to be open for inspection without charge.
550. Satisfaction of a judgment, how made.

541. Judgment to be entered in twenty-four hours, etc.—When trial by jury has been had, judgment must be entered by the clerk, in conformity to the verdict, within twenty-four hours after the rendition of the verdict, unless the court order the case to be reserved for argument or further consideration, or grant a stay of proceedings. If the trial has been had by the court, judgment must be entered by the clerk, in conformity to the decision of the court, immediately upon the filing of such decision. In no case is a judgment effectual for any purpose until so entered.

Cross-References

Entry of judgment upon trial by court, see section 502 of this title.

Entry of judgment upon verdict, see also section 485 of this title.

Entry of judgment in proceedings in forcible entry and detainer, see section 1154 of this title.

Entry of judgment on referee's report, see section 516 of this title.

542. Case may be brought before the court for argument.—When the case is reserved for argument or further consideration, as mentioned in the next preceding section, it may be brought by either party before the court for argument.

543. When counterclaim established exceeds plaintiff's demand.—If a counterclaim, established at the trial, exceed the plaintiff's demand, judgment for the defendant must be given for the excess; or if it appear that the defendant is entitled to any other affirmative relief, judgment must be given accordingly.

CROSS-REFERENCES

Counterclaim generally, see sections 223 and 224 of this title.
Verdict when counterclaim is established exceeding plaintiff's demand, see section 483 of this title.
Dismissal or nonsuit where counterclaim filed, see section 415 of this title.

544. In replevin, judgment to be in the alternative, and with damages; gold coin or currency judgment.—In an action to recover the possession of personal property, judgment for the plaintiff may be for the possession or the value thereof, in case a delivery cannot be had, and damages for the detention. If the property has been delivered to the plaintiff, and the defendant claim a return thereof, judgment for the defendant may be for a return of the property or the value thereof, in case a return cannot be had, and damages for taking and withholding the same. In an action on a contract or obligation in writing, for the direct payment of money, made payable in a specified kind of money or currency, judgment for the plaintiff, whether it be by default or after verdict, may follow the contract or obligation, and be made payable in the kind of money or currency specified therein; and in all actions for the recovery of money, if the plaintiff allege in his complaint that the same was understood and agreed by the respective parties to be payable in a specified kind of money or currency, and this fact is admitted by the default of the defendant or established by evidence, the judgment for the plaintiff must be made payable in the kind of money or currency so alleged in the complaint; and in an action against any person for the recovery of money received by such person in a fiduciary capacity, or to the use of another, judgment for the plaintiff must be made payable in the kind of money or currency so received by such person.

CROSS-REFERENCES

Claim and delivery generally, see sections 321 to 333 of this title.
Return of property to defendant, see sections 326 and 484 of this title.
Verdict in replevin, see section 484 of this title.
Correcting affidavit of value, see section 275 of this title.
Execution, see section 583 of this title.

545. Clerk to enter abstract of judgment.—The clerk must enter an abstract of the judgment in a column set aside for that purpose on the civil docket.

546. If a party die after verdict, judgment may be entered.—If a party die after a verdict or decision upon any issue of fact, and before judgment, the court may nevertheless render judgment thereon. Such judgment is payable in the course of administration on his estate.

CROSS-REFERENCES

Effect of judgment against representative, see section 1485 of this title.
Suggestion of death, see section 141 of this title.

547. Judgment roll, what constitutes.—Immediately after entering the judgment, the clerk must attach together and file the following papers, which constitute the judgment roll:

1. In case the complaint is not answered by any defendant, the summons, with the affidavit or proof of service; the complaint with a memorandum indorsed thereon that the default of the defendant in not answering was entered, and a copy of the judgment; and in case the service so made is by publication, the affidavit for publication of summons, and the order directing the publication of summons.

2. In all other cases, the pleadings, all orders striking out any pleading in whole or in part, a copy of the verdict of the jury, or finding of the court or referee, and a copy of any order made on demurrer, or relating to a change of parties, and a copy of the judgment; if there are two or more defendants in the action, and any one of them has allowed judgment to pass against him by default, the summons, with proof of its service, on such defendant; and if the service on such defaulting defendant be by publication, then the affidavit for publication, and the order directing the publication of the summons.

CROSS-REFERENCES

Agreed case, judgment roll on, see section 1112 of this title.
Certiorari, judgment roll on, see section 1041 of this title.
Confession, judgment roll on, see section 1103 of this title.

548. Clerk to enter judgment.—Immediately after filing the judgment roll, the clerk must make the proper entries of the judgment under appropriate heads, in the civil docket kept by him.

549. Docket to be open for inspection without charge.—The docket kept by the clerk is open at all times, during office hours, for the inspection of the public, without charge. The clerk must arrange the several dockets kept by him in such a manner as to facilitate their inspection.

550. Satisfaction of a judgment, how made.—Satisfaction of a judgment may be entered in the clerk's docket upon an execution returned satisfied, or upon an acknowledgment of satisfaction filed with the clerk, made in the manner prescribed in chapter 22 of Title 3, The Civil Code, by the judgment creditor, or by his indorsement on the face, or on the margin of the record of the judgment, or by the attorney, unless a revocation of his authority is filed. Whenever a judgment is satisfied in fact, otherwise than upon an execution, the party or attorney must give such acknowledgment, or make such indorsement, and, upon motion, the court may compel it, or may order the entry of satisfaction to be made without it.

CROSS-REFERENCES

Acknowledgments, see section 33 of this title.
Attorney, power to bind client, see section 48 of this title.
Contribution between joint judgment debtors, see section 610 of this title.
For chapter 22 of title 3, see title 3, sections 491 et seq.

ARTICLE 9.—UNDERTAKING IN ACTION TO SET ASIDE FRAUDULENT TRANSFER

Sec.
561. Undertaking permitting transferee to dispose of property.
562. Conditions of undertaking.
563. Filing and serving undertaking.
564. Objections to sureties.
565. Justification of sureties; approval and disapproval of undertaking.
566. Objection because estimated value in undertaking less than market value; new undertaking.
567. Justification of sureties.
568. When undertaking becomes effective.
569. Judgment against sureties.

561. Undertaking permitting transferee to dispose of property.—Where an action is commenced to set aside a transfer or conveyance of property on the grounds that such transfer or conveyance was made to hinder, delay, or defraud a creditor or creditors, the transferee or grantee to whom it is alleged the property was transferred or conveyed to hinder, delay or defraud creditors or the successors or assigns of such transferee or grantee, may give an undertaking as herein provided, and when such undertaking is given as herein provided, the transferee or grantee to whom it is alleged the property was transferred or conveyed to hinder, delay, or defraud creditors, or the successors and assigns of such transferee or grantee, may sell, encumber, transfer, convey, mortgage, pledge, or otherwise dispose of the property, or any part thereof, which is alleged to have been transferred or conveyed to hinder, delay, or defraud creditors, so that the purchaser, encumbrancer, transferee, mortgagee, grantee, or pledgee of such property, will take, own, hold, and possess such property unaffected by such action and suit, or the judgment which may be rendered therein.

CROSS-REFERENCE

Fraudulent conveyances or transfers, see title 3, sections 2761 et seq.

562. Conditions of undertaking.—Such undertaking with two sureties shall be executed by the transferee or grantee to whom it is alleged the property was transferred or conveyed to hinder, delay, or defraud creditors, or the successor or assign of such transferee or grantee, in double the estimated value of the property so alleged to have been transferred or conveyed: *Provided*, That in no case need such undertaking be for a greater sum than double the amount of the debt or liability alleged to be due and owing to the plaintiff in such action, commenced to set aside said transfer and conveyance; and where such estimated value of the property alleged so to have been conveyed is less than the sum alleged to be due and owing to the plaintiff in the action, such estimated value shall be stated in the undertaking, and said undertaking shall be conditioned that, if it be adjudged in said action that the transfer or conveyance was made to hinder, delay or defraud a creditor or creditors, then that the transferee or grantee or the said successor or assigns of such transferee or grantee giving such undertaking, will pay to the plaintiff in said action a sum equal to the value, as the same is estimated in said undertaking, of said property alleged to have been transferred or conveyed to hinder, delay, or defraud creditors, not exceeding the sum alleged to be due and owing to the plaintiff in the action.

563. Filing and serving undertaking.—Said undertaking shall be filed in the action in which said execution issued and a copy thereof served upon the plaintiff or his attorney in said action.

564. Objections to sureties.—Within ten days after service of the copy of undertaking the plaintiff may object to such undertaking on the ground of inability of the sureties, or either of them, to pay the sum for which they become bound in said undertaking, and upon the ground that the estimated value of the property therein is less than the market value of such property. Such objection to the undertaking shall be made in writing, specifying the ground or grounds of objection, and if the objection is made to the undertaking that the estimated value therein is less than the market value of the property, such objection shall specify the plaintiff's estimate of the market value of the property. Such written objection shall be served upon the said transferee or grantee, or the successor or assigns of such transferee or grantee giving such undertaking.

565. Justification of sureties; approval and disapproval of undertaking.—When the sureties or either of them, are objected to, the surety or sureties so objected to shall justify before the court in which the action is commenced, upon ten days' notice of the time when they will so justify being given to the plaintiff, or plaintiff's attorney. Upon the hearing and examination into the sufficiency of a surety, witnesses may be required to attend and evidence may be procured and introduced in the same manner as in trial of civil cases. Upon such hearing and examination the court shall make its order, in writing, approving or disapproving the sufficiency of the sureties or surety on such undertaking. In case the court disapproves of the surety or sureties on any undertaking, a new undertaking may be filed and served, and to any undertaking given under the provisions of this article the same objection to the sureties may be made and the same proceedings had as in case of the first undertaking filed and served.

566. Objection because estimated value in undertaking less than market value; new undertaking.—When objection is made to the undertaking upon the ground that the estimated value of the property, as stated in the undertaking, is less than the market value of the property, the transferee or grantee, or the sucessor or assigns of such transferee or grantee giving the undertaking may accept the estimated value stated by the plaintiff in said objection, and a new undertaking may at once be filed, with the plaintiff's estimate stated therein as the estimated value, and no objection shall thereafter be made upon that ground; if the plaintiff's estimate of the market value is not accepted, the transferee or grantee, or the successor or assigns of the grantee or transferee giving such undertaking, upon ten days' notice to the plaintiff, shall move the court in which the action is pending to estimate the market value of the property, and upon the hearing of such motion, witnesses may be required to attend and testify, and evidence may be produced in the same manner as in the trial of civil actions. Upon the hearing of the motion the court shall estimate the market value of the property, and if the estimated value of the property as made by the court exceeds the estimated value as stated in the undertaking, a new undertaking shall be filed and served with the market value determined by the stated value therein as the estimated value of the property.

567. Justification of sureties.—The sureties shall justify upon the undertaking as required by section 963 of this title.

568. When undertaking becomes effective.—The undertaking shall become effective for the purpose stated in section 561 of this title, ten days after service of copy thereof on the plaintiff, unless objection to such undertaking is made as provided in sections 564 or 566 of this title, and in case objection is so made to the undertaking filed and served, the same shall become effective for such purpose when an order is made by such court approving the sureties, when the surety or sureties are objected to, or affirming the estimate of the value of property when objection is made thereto, or in case any objection to the undertaking is sustained by the court when a new undertaking is filed and served as required by sections 565 or 566, to which no objection is made, or if made is not sustained by the court.

569. Judgment against sureties.—If judgment be rendered in said action that the alleged transfer or conveyance was made to hinder, delay, or defraud creditors, then judgment shall be rendered in such action without further proceeding in favor of plaintiff and against the principal and sureties on said undertaking for the sum for which said undertaking was executed according to the conditions thereof.

CHAPTER 12.—EXECUTION OF JUDGMENT IN CIVIL ACTIONS

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ARTICLE 1.—EXECUTION

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Section 581. Within what time execution may issue.—The party in whose favor judgment is given may, at any time within five years after the entry thereof, have a writ of execution issued for its enforcement. If, after the entry of the judgment, the issuing of execution thereon is stayed or enjoined by any judgment or order of court, or by operation of law, the time during which it is so stayed or enjoined must be excluded from the computation of the five years within which execution may issue.

CROSS-REFERENCES

Time for execution, when extended, see section 586 of this title.

Satisfaction of judgment by clerk where money deposited by defendant, see section 312 of this title.

Satisfaction of judgment by marshal out of property attached, see section 365 of this title.

Executor or administrator, no execution to issue upon judgment against, upon claim against estate, see section 1485 of this title.

Receiver in proceedings in aid of execution, see section 381 of this title.

Death, no execution to issue after, see sections 1485, 1486 of this title.

New execution after discharge of defendant from arrest, see section 1130 of this title.

582. Stay of Execution.—The court or the judge thereof shall not have the power, without the consent of the adverse party, to stay, for a longer period than thirty days, the execution of any judgment or order the execution whereof would be stayed on appeal only by the execution of a stay bond.

583. Who may issue the execution, its form, to whom directed, and what it shall require.—The writ of execution must be issued in the name of the Government of the Canal Zone, sealed with the seal of the court, and subscribed by the clerk, and be directed to the marshal, and it must intelligibly refer to the judgment, stating the court, the division where the judgment roll is filed, and if it be for money, the amount thereof, and the amount actually due thereon, and if made payable in a specified kind of money or currency, as provided in section 544 of this title, the execution must also state the kind of money or currency in which the judgment is payable, and must require the marshal substantially as follows:

1. If it be against the property of the judgment debtor, it must require the marshal to satisfy the judgment, with interest, out of the property of such debtor.

2. If it be against property in the hands of the personal representatives, heirs, devisees, legatees, tenants, or trustees, it must require the marshal to satisfy the judgment, with interest, out of such property.

3. If it be against the person of the judgment debtor, it must require the marshal to arrest such debtor and commit him to jail until he pay the judgment, with interest, or be discharged according to law.

4. If it be issued on a judgment made payable in a specified kind of money or currency, as provided in section 544, it must also require the marshal to satisfy the same in the kind of money or currency in which the judgment is made payable, and the marshal must refuse payment in any other kind of money or currency; and in case of levy and sale of the property of the judgment debtor, he must refuse payment from any purchaser at such sale in any other kind of money or currency than that specified in the execution. The marshal collecting money or currency in the manner required by this article, must pay to the plaintiff or party entitled to recover the same, the same kind of money or currency received by him, and in case of neglect or refusal so to do, he shall be liable on his official bond to the judgment creditor in three times the amount of the money so collected.

5. If it be for the delivery of the possession of property, it must require the marshal to deliver the possession of the same, describing it, to the party entitled thereto, and may at the same time require the marshal to satisfy any costs, damages, rents, or profits recovered by the same judgment, out of the property of the person against whom it was rendered, and the value of the property for which the judgment was rendered to be specified therein if a delivery thereof cannot be had.

Cross-References

Contempt in resisting, see section 1163 of this title.

Mandamus, execution for costs and damages in, see section 1059 of this title.

584. When made returnable.—The execution may be made returnable, at any time not less than ten nor more than sixty days after its receipt by the marshal, to the clerk with whom the judgment roll is filed. When the execution is returned the clerk must attach it to the judgment roll.

585. Money judgments and others, how enforced.—When the judgment is for money, or the possession of property, the same may be enforced by a writ of execution; and if the judgment direct that the defendant be arrested, the execution may issue against the person of the judgment debtor, after the return of an execution against his property unsatisfied in whole or part; when the judgment requires the sale of property, the same may be enforced by a writ reciting such judgment, or the material parts thereof, and directing the proper officer to execute the judgment, by making the sale and applying the proceeds in conformity therewith; when the judgment requires the performance of any other act than as above designated, a certified copy of the judgment may be served upon the party against whom the same is rendered, or upon the person or officer required thereby or by law to obey the same, and obedience thereto may be enforced by the court.

CROSS-REFERENCES

Writ of possession or restitution, see sections 137 and 1154 of this title.

Execution against person, discharge of prisoner, see sections 1121 to 1132 of this title.

Sale of property, see sections 594 et seq., of this title.

Performance of any other act, enforcing obedience, see section 1163 of this title.

586. Execution after five years.—In all cases the judgment may be enforced or carried into execution after the lapse of five years from the date of its entry, by leave of the court, upon motion, or by judgment for that purpose, founded upon supplemental pleadings; but nothing in this section shall be construed to revive a judgment for the recovery of money which shall have been barred by limitation at the time of the enactment of this title.

587. When execution may issue against the property of a party after his death.—Notwithstanding the death of a party after the judgment, execution thereon may be issued, or it may be enforced, as follows:

1. In case of the death of the judgment creditor, upon the application of his executor or administrator, or successor in interest;
2. In case of the death of the judgment debtor, if the judgment be for the recovery of property, or the enforcement of a lien thereon.

CROSS-REFERENCES

Effect of death of party on action, see section 141 of this title.

Judgment after death of party, see section 546 of this title.

Execution after death of party, see section 1486 of this title.

588. Property liable to execution; not affected until levied on.—All goods, chattels, moneys, and other property, both real and personal, or any interest therein, of the judgment debtor, not exempt by law, and all property and rights of property seized and held under attachment in the action, are liable to execution. Shares and interests in any corporation or company, and debts and credits, and all other property, both real and personal, or any interest in either real or personal property, and all other property not capable of manual delivery, may be levied upon or released from levy in like manner as like property may be attached or released from attachment. Until a levy, property is not affected by the execution; but no levy shall bind any property for a longer period than one year from the date of the issuance of the execution: *Provided, however*, That an alias execution may be issued on said judgment and levied on any property not exempt from execution.

CROSS-REFERENCES

Levy on mortgaged personalty, see title 3, sections 2268 to 2270.
Lien of officer levying execution on personalty, see title 3, section 2316.
Exemptions, generally, see section 590 of this title.

589. Indemnity where property claimed by third party.—If the property levied on is claimed by a third person as his property by a written claim verified by his oath or that of his agent, setting out his right to the possession thereof, and served upon the marshal, the marshal is not bound to keep the property unless the plaintiff, or the person in whose favor the writ of execution runs, on demand, indemnifies the marshal against such claim by an undertaking by at least two good and sufficient sureties in a sum equal to double the value of the property levied on; and the marshal is not liable for damages for the taking or keeping of such property to any such third person, unless such a claim is made.

The marshal may demand and exact the undertaking herein provided for notwithstanding any defect, informality, or insufficiency of the verified claim served upon him.

CROSS-REFERENCE

Liability of sureties on judgment against marshal, see section 961 of this title.

590. What exempt from execution.—The following property is exempt from execution or attachment, except as herein otherwise specially provided:

1. Chairs, tables, desks, and books, to the value of $200 belonging to the judgment debtor;
2. Household furniture and utensils necessary for housekeeping and used for that purpose by the debtor, such as the debtor may select, of a value not exceeding $250; and all wearing apparel;
3. Tools and implements necessarily used by him in his trade or employment;
4. Two domestic animals such as the debtor may select, not exceeding $100 in value, and necessarily used by him in his ordinary occupation;
5. The professional libraries of lawyers, judges, clergymen, doctors, school teachers, and music teachers, not exceeding $250 in value;
6. One fishing boat and net, not exceeding the total value of $200, the property of any fisherman, by the lawful use of which he earns his livelihood;

7. The wages and earnings of all seamen and seagoing fishermen, not exceeding $300, regardless of where or when earned, and in addition to all other exemptions otherwise provided by any law;

8. The earnings of the judgment debtor for his personal services rendered at any time within thirty days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit or otherwise, that such earnings are necessary for the use of his family, residing in the Canal Zone, supported in whole or in part by his labor; but where debts are incurred by any such person, or his wife or family for the common necessaries of life, or have been incurred at a time when the debtor had no family residing in the Canal Zone, supported in whole or in part by his labor, the one half of such earnings above mentioned is nevertheless subject to execution, garnishment, or attachment to satisfy debts so incurred;

9. All the nautical instruments and wearing apparel of any master, officer, or seaman of any steamer or other vessel;

10. All arms, uniforms, and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor;

11. Life insurance benefits. All moneys, benefits, privileges, or immunities accruing or in any manner growing out of any life insurance, if the annual premiums paid do not exceed $500, and if they exceed that sum a like exemption shall exist which shall bear the same proportion of the moneys, benefits, privileges, and immunities so accruing or growing out of such insurance that said $500 bears to the whole annual premiums paid;

12. Pensions. All money received by any person, a resident of the Canal Zone, as a pension from the United States Government, whether the same shall be in the actual possession of such pensioner or deposited, loaned, or invested by him.

NOT EXEMPT FROM JUDGMENT FOR PRICE.—No article, however, or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

591. Writ, how executed.—The marshal must execute the writ against the property of the judgment debtor, by levying on a sufficient amount of property, if there be sufficient; collecting or selling the things in action, and selling the other property, and paying to the plaintiff or his attorney so much of the proceeds as will satisfy the judgment. Any excess in the proceeds over the judgment and accruing costs must be returned to the judgment debtor, unless otherwise directed by the judgment or order of the court. When there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs within the view of the marshal, he must levy only on such part of the property as the judgment debtor may indicate, if the property indicated be amply sufficient to satisfy the judgment and costs.

592. Notice of sale under execution, how given.—Before the sale of property on execution or under power contained in any deed of trust, notice thereof must be given as follows:

1. In case of perishable property: By posting written notice of the time and place of sale in three public places of the town where

the sale is to take place, for such time as may be reasonable, considering the character and condition of the property.

2. In case of other personal property: By posting a similar notice in three public places in the town where the sale is to take place, for not less than five days nor more than ten days.

3. In case of real property: By posting a similar notice particularly describing the property for twenty days, in three public places of the town where the property is to be sold and publishing a copy thereof once a week for the same period, in some newspaper of general circulation in the Canal Zone: *Provided*, That where real property is to be sold under the provision of any deed of trust the copy of said notice shall be posted in some conspicuous place on the property to be sold, at least twenty days before date of sale.

4. When the judgment under which the property is to be sold is made payable in a specified kind of money or currency, the several notices required by this section must state the kind of money or currency in which bids may be made at such sale, which must be the same as that specified in the judgment.

Cross-Reference

Specified kind of money, see section 583 of this title.

593. Selling without notice, what penalty attached.—An officer selling without the notice prescribed by the next preceding section forfeits $500 to the aggrieved party, in addition to his actual damages; and a person willfully taking down or defacing the notice posted, if done before the sale or the satisfaction of the judgment (if the judgment be satisfied before sale), forfeits $500.

594. Sales, how conducted; neither the officer conducting it nor his deputy to be a purchaser; real and personal property, how sold; judgment debtor, if present, may direct order of sale, and the officer shall follow his directions.—All sales of property under execution must be made at auction, to the highest bidder, between the hours of nine in the morning and five in the afternoon. After sufficient property has been sold to satisfy the execution, no more can be sold. Neither the officer holding the execution nor his deputy can become a purchaser or be interested in any purchase at such sale. When the sale is of personal property, capable of manual delivery, it must be within view of those who attend the sale, and be sold in such parcels as are likely to bring the highest price; and when the sale is of real property, consisting of several known lots or parcels, they must be sold separately; or when a portion of such real property is claimed by a third person, and he requires it to be sold separately, such portion must be thus sold. The judgment debtor, if present at the sale, may also direct the order in which property, real or personal, shall be sold, when such property consists of several known lots or parcels, or of articles which can be sold to advantage separately, and the marshal must follow such directions.

595. If purchaser refuses to pay purchase-money, what proceedings.—If a purchaser refuse to pay the amount bid by him for property struck off to him at a sale under execution, the officer may again sell the property at any time to the highest bidder, and if any loss be occasioned thereby, the officer may recover the amount of such loss, with costs, from the bidder so refusing, in any court of competent jurisdiction.

596. Officer may refuse such purchaser's subsequent bid.—When a purchaser refuses to pay, the officer may, in his discretion, thereafter reject any subsequent bid of such person.

597. Two preceding sections not to make officer liable beyond a certain amount.—Sections 595 and 596 of this title must not be construed to make the officer liable for any more than the amount bid by the second or subsequent purchaser, and the amount collected from the purchaser refusing to pay.

598. Personal property capable of manual delivery, how delivered to purchaser.—When the purchaser of any personal property capable of manual delivery pays the purchase-money, the officer making the sale must deliver to the purchaser the property, and, if desired, execute and deliver to him a certificate of the sale. Such certificate conveys to the purchaser all the right which the debtor had in such property on the day the execution or attachment was levied.

599. Personal property not capable of manual delivery, how sold and delivered.—When the purchaser of any personal property not capable of manual delivery pays the purchase-money, the officer making the sale must execute and deliver to the purchaser a certificate of sale. Such certificate conveys to the purchaser all the right which the debtor had in such property on the day the execution or attachment was levied.

Cross-Reference

Attachment, personalty not capable of manual delivery, see section 356 of this title.

600. Sale of real property; what purchaser is substituted to and acquires.—Upon a sale of real property, the purchaser is substituted to and acquires all the right, title, interest, and claim of the judgment debtor thereto on the date of the levy of the execution thereon. And in case property, real or personal, has been attached in the action, the purchaser is substituted to and acquires all the right, title, interest, and claim of the judgment debtor on or at any time after the day the attachment was levied upon such property.

Cross-References

Marshal's deed, and what passes by it, see section 604 of this title.

Injunction to restrain person in possession from waste, see section 668 of this title.

Recovery of damages for waste, see section 669 of this title.

601. When sales are absolute; what certificate must show.—Sales of personal property, and of real property, when the estate therein is less than a leasehold of two years' unexpired term, are absolute. In all other cases the property is subject to redemption, as provided in this article. The officer must give to the purchaser a certificate of sale, and file a duplicate thereof for record in the office of the registrar of property, which certificate must state the date of the judgment under which the sale was made and the names of the parties thereto, and contain—

1. A particular description of the real property sold;
2. The price bid for each distinct lot or parcel;
3. The whole price paid;
4. If the property is subject to redemption, the certificate must so declare, and if the redemption can be effected only in a particular kind of money or currency, that fact must be stated.

CROSS-REFERENCE

Specified kind of money, see sections 583 and 592 of this title.

602. Real property so sold, by whom it may be redeemed.—Property sold subject to redemption, as provided in the next preceding section, or any part sold separately, may be redeemed in the manner hereinafter provided, by the following persons, or their successors in interest:

1. The judgment debtor, or his successor in interest, in the whole or any part of the property;
2. A creditor having a lien or mortgage on the property sold, or on some share or part thereof, subsequent to that on which the property was sold. The persons mentioned in subdivision 2 of this section are, in this article, termed redemptioners.

CROSS-REFERENCES

Judgment creditor, redemption by, see also section 1486 of this title.
Lien, redemption from, see title 3, sections 2211 to 2213.
Contract in restraint of redemption void, see title 3, section 2192.

603. When it may be redeemed, and redemption money.—The judgment debtor, or redemptioner, may redeem the property from the purchaser any time within twelve months after the sale on paying the purchaser the amount of his purchase, with 1 percent per month thereon in addition, up to the time of redemption. And if the purchaser be also a creditor, having a prior lien to that of the redemptioner, other than the judgment under which said purchase was made, the amount of such lien with interest.

604. Another redemptioner may redeem.—If property be so redeemed by a redemptioner, another redemptioner may, within sixty days after the last redemption, again redeem it from the last redemptioner, on paying the sum paid on such last redemption, with 2 percent thereon in addition, and, in addition, the amount of any liens held by said redemptioned prior to his own, with interest; but the judgment under which the property was sold need not be so paid as a lien.

SELLING PROPERTY AGAIN.—The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty days after the last redemption, on paying the sum paid on the last previous redemption, with 2 percent thereon in addition, and the amount of any liens, other than the judgment under which the property was sold, held by the last redemptioner previous to his own with interest.

WRITTEN NOTICE TO MARSHAL; TO BE FILED WITH REGISTRAR.—Written notice of redemption must be given to the marshal and a duplicate filed with the registrar of property, and if the redemptioner has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the marshal and filed with the registrar; and if such notice be not filed, the property may be redeemed without paying such lien.

MARSHAL'S DEED.—If no redemption be made within twelve months after the sale, the purchaser, or his assignee, is entitled to a conveyance; or if so redeemed, whenever sixty days have elapsed, and no other redemption has been made, and notice thereof given and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to a marshal's deed; but, in all cases, the judgment debtor shall have the entire period of twelve months from the date of the sale to redeem the property.

REDEMPTION BY JUDGMENT DEBTOR.—If the judgment debtor redeem, he must make the same payments as are required to effect a redemption by a redemptioner. If the debtor redeem, the effect of the sale is terminated and he is restored to his estate.

CERTIFICATE OF REDEMPTION.—Upon a redemption by the debtor, the person to whom the payment is made must execute and deliver to him a certificate of redemption, acknowledged or proved before an officer authorized to take acknowledgments. Such certificate must be filed and recorded in the office of the registrar of property, and the registrar must note the record thereof in the margin of the record of the certificate of sale.

605. In cases of redemption, to whom the payments are to be made.—The payments mentioned in sections 603 and 604 of this title may be made to the purchaser or redemptioner, or for him, to the officer who made the sale. When the judgment under which the sale has been made is payable in a specified kind of money or currency, payments must be made in the same kind of money or currency, and a tender of the money is equivalent to payment.

CROSS-REFERENCE

Specified kind of money, see sections 583 and 592 of this title.

606. What a redemptioner must do in order to redeem.—A redemptioner must produce to the officer or person from whom he seeks to redeem and serve with his notice to the marshal making the sale, or his successor in office:

1. A copy of the docket of the judgment under which he claims the right to redeem, certified by the clerk of the court, where the judgment is docketed; or, if he redeem upon a mortgage or other lien, a note of the record thereof, certified by the registrar;

2. A copy of any assignment necessary to establish his claim, verified by the affidavit of himself, or of a subscribing witness thereto;

3. An affidavit by himself or his agent, showing the amount then actually due on the lien.

607. Until the expiration of redemption time, court may restrain waste on the property; what considered waste.—Until the expiration of the time allowed for redemption, the court may restrain the commission of waste on the property, by order granted with or without notice, on the application of the purchaser or the judgment creditor. But it is not waste for the person in possession of the property at the time of sale, or entitled to possession afterwards, during the period allowed for redemption, to continue to use it in the same manner in which it was previously used; or to use in the ordinary course of husbandry; or to make the necessary repairs of buildings thereon; or to use wood or timber on the property therefor; or for the repair of fences; or for fuel for his family, while he occupies the property.

CROSS-REFERENCE

Waste, see sections 668 and 669 of this title.

608. Rents and profits.—The purchaser from the time of the sale until a redemption, and a redemptioner, from the time of his redemption until another redemption, is entitled to receive, from the tenant in possession, the rents of the property sold, or the value of the use and occupation thereof. But when any rents or profits have been received by the judgment creditor or purchaser, or his or their assigns, from the property thus sold preceding such redemption, the amounts of such rents and profits shall be a credit upon the redemption money to be paid; and if the redemptioner or judgment debtor, before the expiration of the time allowed for such redemption, demands in writing of such purchaser or creditor, or his assigns, a written and verified statement of the amounts of such rents and profits thus received, the period for redemption is extended five days after such sworn statement is given by such purchaser or his assigns, to such redemptioner or debtor. If such purchaser or his assigns shall, for a period of one month from and after such demand, fail or refuse to give such statement, such redemptioner or debtor may bring an action in any court of competent jurisdiction, to compel an accounting and disclosure of such rents and profits, and until fifteen days from and after the final determination of such action, the right of redemption is extended to such redemptioner or debtor.

609. If purchaser of real property be evicted for irregularities in sale, what he may recover, and from whom; when judgment to be revived; petition for the purpose, how and by whom made.—If the purchaser of real property sold on execution, or his successor in interest, be evicted therefrom in consequence of irregularities in the proceedings concerning the sale, or of the reversal or discharge of the judgment, he may recover the price paid, with interest, from the judgment creditor. If the purchaser of property at marshal's sale, or his successor in interest, fail to recover possession in consequence of irregularity in the proceedings concerning the sale, or because the property sold was not subject to execution and sale, the court having jurisdiction thereof must, after notice and on motion of such party in interest, or his attorney, revive the original judgment in the name of the petitioner, for the amount paid by such purchaser at the sale, with interest thereon from the time of payment at the same rate that the original judgment bore; and the judgment so revived has the same force and effect as would an original judgment of the date of the revival, and no more.

610. Party who pays more than his share may compel contribution.—When property, liable to an execution against several persons, is sold thereon, and more than a due proportion of the judgment is satisfied out of the proceeds of the sale of the property of one of them, or one of them pays, without a sale, more than his proportion, he may compel contribution from the others; and when a judgment is against several, and is upon an obligation of one of them, as security for another, and the surety pays the amount, or any part thereof, either by sale of his property or before sale, he may compel repayment from the principal. In such case the person so paying or contributing is entitled to the benefit of the judgment, to enforce contribution or repayment, if, within ten days after his payment, he file with the clerk of the court where the judgment was rendered, notice of his payment and claim to contribution or repayment. Upon a filing of such notice, the clerk must make an entry thereof in the margin of the docket.

CROSS-REFERENCE

Subrogation of surety on appeal bond, see section 969 of this title.

611. Claimant of property may give undertaking and release property.—Where property levied upon under execution to satisfy a judgment for the payment of money is claimed, in whole or in part, by a person, corporation, partnership, or association, other than the judgment debtor, such claimant may give an undertaking as hereinafter provided, which undertaking shall release the property in the undertaking described from the lien and levy of such execution.

612. Claim of property; undertaking, amount and conditions of.—Such undertaking, with two sureties, shall be executed by the person, corporation, partnership, or association, claiming in whole or in part, the property upon which execution is levied in double the estimated value of the property claimed by the person, corporation, partnership, or association: *Provided*, That in no case need such undertaking be for a greater sum than double the amount for which the execution is levied; and where the estimated value of the property so claimed by the person, corporation, partnership, or association is less than the sum for which such attachment is levied, such estimated value shall be stated in the undertaking, and said undertaking shall be conditioned that if the property claimed by the person, corporation, partnership, or association is finally adjudged to be the property of the judgment debtor, said person, corporation, partnership, or association will pay of said judgment upon which execution has issued a sum equal to the value, as estimated in said undertaking, of said property claimed by said person, corporation, partnership, or association, and said property claimed shall be described in said undertaking.

613. Claim of property; undertaking, filing, and serving.—Said undertaking shall be filed in the action in which said execution issued and a copy thereof served upon the judgment creditor or his attorney in said action.

614. Claim of property; undertaking, objections to.—Within ten days after the service of the copy of undertaking, the judgment creditor may object to such undertaking on the ground of inability of the sureties, or either of them, to pay the sum for which they become bound in said undertaking, and upon the ground that the estimated value of property therein is less than the market value of the property claimed. Such objection to the undertaking shall be made in writing, specifying the ground or grounds of objection, and if the objection is made to the undertaking that the estimated value therein is less than the market value of the property claimed, such objection shall specify the judgment creditor's estimate of the market value of the property claimed. Such written objection shall be served upon the person, partnership, corporation, or association giving such undertaking and claiming the property therein described.

615. Claim of property; justification, approval, and disapproval.—When the sureties, or either of them, are objected to, the surety or sureties so objected to shall justify before the court out of which such execution issued, upon ten days' notice of the time when they will so justify being given to the judgment debtor or his attorney. Upon the hearing and examination into the sufficiency of a surety, witnesses may be required to attend and evidence may be procured and introduced in the same manner as in trial of civil cases. Upon such hearing and examination, the court shall make its order, in writing, approving or disapproving the sufficiency of the surety or sureties on such undertaking. In case the court disapproves of the surety or sureties on any undertaking, a new undertaking may be filed and served, and to any undertaking given under the provisions of sections 611 to 618 of this title, the same objection to the sureties may be made, and the same proceedings had as in case of the first undertaking filed and served.

616. Claim of property; undertaking, estimate of value, and new undertaking.—When objection is made to the undertaking upon the ground that the estimated value of the property claimed, as stated in the undertaking, is less than the market value of the property claimed, the person, corporation, partnership, or association may accept the estimated value stated by the judgment creditor in said objection, and a new undertaking may be at once filed with the judgment creditor's estimate stated therein as the estimated value, and no objection shall thereafter be made upon that ground; if the judgment creditor's estimate of the market value is not accepted, the person, corporation, partnership, or association giving the undertaking shall move the court in which the execution issued, upon ten days' notice to the judgment creditor, to estimate the market value of the property claimed and described in the undertaking, and upon the hearing of such motion witnesses may be required to attend and testify, and evidence be produced in the same manner as in the trial of civil actions. Upon the hearing of such motion, the court shall estimate the market value of the property described in the undertaking, and if the estimated value made by the court exceeds the estimated value as stated in the undertaking, a new undertaking shall be filed and served, with the market value determined by the court stated therein as the estimated value.

617. Claim of property; undertaking, justification of sureties.—The sureties shall justify on the undertaking as required by section 963 of this title.

618. Claim of property; undertaking, when becomes effective.—The undertaking shall become effective for the purpose herein specified ten days after service of copy thereof on the judgment debtor, unless objection to such undertaking is made as herein provided, and in case objection is made to the undertaking filed and served, then the undertaking shall become effective for such purposes when an undertaking is given as herein provided.

ARTICLE 2.—PROCEEDINGS SUPPLEMENTAL TO EXECUTION

Sec.
621. Debtor required to answer concerning his property, when.
622. Proceedings to compel debtor to appear; in what cases he may be arrested; what bail may be given.
623. Any debtor of the judgment debtor may pay the latter's creditor.
624. Examination of debtors of judgment debtor, or of those having property belonging to him.

Sec.
625. Witnesses required to testify.
626. Judge may order property to be applied on execution.
627. Proceedings upon claim of another party.
628. Disobedience of orders, how punished.

621. Debtor required to answer concerning his property, when.—When an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, issued to the marshal, is returned unsatisfied in whole or in part, the judgment creditor, at any time after such return is made, is entitled to an order from the judge of the court, requiring such judgment debtor to appear and answer concerning his property before such judge, or a referee appointed by him, at a time and place specified in the order.

CROSS-REFERENCES

Conduct of examination, see section 625 of this title.
Receiver, aiding proceedings, see section 381 of this title.

622. Proceedings to compel debtor to appear; in what cases he may be arrested; what bail may be given.—After the issuing of an execution against property, and upon proof, by affidavit of a party or otherwise, to the satisfaction of the judge of the court that any judgment debtor has property which he unjustly refuses to apply toward the satisfaction of the judgment, such judge may, by an order, require the judgment debtor to appear, at a specified time and place, before such judge, or a referee appointed by him, to answer concerning the same; and such proceedings may thereupon be had for the application of the property of the judgment debtor toward the satisfaction of the judgment as are provided upon the return of an execution. Instead of the order requiring the attendance of the judgment debtor, the judge may, upon affidavit of the judgment creditor, his agent or attorney, if it appear to him that there is danger of the debtor absconding, order the marshal to arrest the debtor and bring him before such judge. Upon being brought before the judge, he may be ordered to enter into an undertaking, with sufficient surety, that he will attend from time to time before the judge or referee, as may be directed during the pendency of proceedings and until the final termination thereof, and will not in the meantime dispose of any portion of his property not exempt from execution. In default of entering into such undertaking he may be committed to jail.

CROSS-REFERENCES

Requiring witnesses to appear and answer, see section 625 of this title.

Application of property of judgment debtor to satisfaction of judgment, see section 626 of this title.

Arrest of debtor as provisional remedy, see sections 291 to 316 of this title.

Discharge of persons imprisoned on civil process, see sections 1121 to 1132 of this title.

623. Any debtor of the judgment debtor may pay the latter's creditor.—After the issuing of an execution against property, and before its return, any person indebted to the judgment debtor may pay to the marshal the amount of his debt, or so much thereof as may be necessary to satisfy the execution; and the marshal's receipt is a sufficient discharge for the amount so paid.

624. Examination of debtors of judgment debtor, or of those having property belonging to him.—After the issuing or return of an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, and upon proof by affidavit or otherwise, to the satisfaction of the judge, that any person or corporation has property of such judgment debtor, or is indebted to him in an amount exceeding $50, the judge may, by an order, require such person or corporation. or any officer or member thereof, to appear at a specified time and place before him, or a referee appointed by him, and answer concerning the same.

CROSS-REFERENCES

Receiver, see section 381 of this title.

Referee, see section 621 of this title.

625. Witnesses required to testify.—Witnesses may be required to appear and testify before the judge or referee, upon any proceeding under this article, in the same manner as upon the trial of an issue.

CROSS-REFERENCE

Witnesses, rights and duties of, see sections 2141 to 2147 of this title.

626. Judge may order property to be applied on execution.—The judge or referee may order any property of the judgment debtor, not exempt from execution, in the hands of such debtor, or any other person, or due to the judgment debtor, to be applied toward the satisfaction of the judgment; but no such order can be made as to money or property in the hands of any other person or claimed to be due from him to the judgment debtor, if such person claims an interest in the property adverse to the judgment debtor or denies the debt.

CROSS-REFERENCE

Property exempt from execution, see section 590 of this title.

627. Proceedings upon claim of another party.—If it appears that a person or corporation, alleged to have property of the judgment debtor, or to be indebted to him, claims an interest in the property adverse to him, or denies the debt, the judgment creditor may maintain an action against such person or corporation for the recovery of such interest or debt; and the court or judge may, by order, forbid a transfer or other disposition of such interest or debt, until an action can be commenced and prosecuted to judgment. Such order may be modified or vacated by the judge granting the same, or the court in which the action is brought, at any time, upon such terms as may be just.

CROSS-REFERENCE

Receiver, see section 381 of this title.

628. Disobedience of orders, how punished.—If any person, party, or witness disobey an order of the referee, properly made, in the proceedings before him under this article, he may be punished by the court or judge ordering the reference, for a contempt.

CROSS-REFERENCE

Contempt, see section 1163 of this title.

CHAPTER 13.—ACTIONS IN PARTICULAR CASES

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2. Actions for nuisance and waste 651
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ARTICLE 1.—ACTIONS FOR FORECLOSURE OF MORTGAGES

Sec.
641. Proceedings in foreclosure suits.
642. Surplus money to be deposited in court.
643. Proceedings when debt secured falls due at different times.
644. Commissioner's oath, bond, report, and compensation.

Section 641. Proceedings in foreclosure suits.—There can be but one action for the recovery of any debt, or the enforcement of any right secured by mortgage upon real or personal property, which action must be in accordance with the provisions of this article. In such action the court may, by its judgment, direct the sale of the encumbered property (or so much thereof as may be necessary), and the application of the proceeds of the sale to the payment of the costs of court, and the expenses of the sale, and the amount due plaintiff, including, where the mortgage provides for the payment of attorney's fees, such sum for such fees as the court shall find reasonable, not exceeding the amount named in the mortgage.

The court may, by its judgment, or at any time after judgment, appoint a commissioner to sell the encumbered property. It must require of him an undertaking in an amount fixed by the court, with sufficient sureties, to be approved by the judge, to the effect that the commissioner will faithfully perform the duties of his office according to law. Before entering upon the discharge of his duties he must file such undertaking, so approved, together with his oath that he will faithfully perform the duties of his office.

If it appear from the marshal's return, or from the commissioner's report, that the proceeds are insufficient, and a balance still remains due, judgment must then be docketed by the clerk in the manner provided in this title for such balance against the defendant or defendants personally liable for the debt. No person holding a conveyance from or under the mortgagor of the property mortgaged, or having a lien thereon, which conveyance or lien does not appear of record in the office of the registrar of property at the time of the commencement of the action, need be made a party to such action, and the judgment therein rendered, and the proceedings therein had, are as conclusive against the party holding such unrecorded conveyance or lien as if he had been a party to the action.

If the court appoint a commissioner for the sale of the property, he must sell it in the manner provided by law for the sale of like property by the marshal upon execution; and the provisions of sections 581 to 618 of this title are hereby made applicable to sale made by such commissioner, and the powers therein given and the duties therein imposed on the marshal are extended to such commissioner.

CROSS-REFERENCES

Foreclosure of mortgage against estate, see sections 1478 and 1481 of this title.

Injunction to restrain waste by party in possession, see section 668 of this title.

Judgment by default and relief granted thereon, see sections 414 and 421 of this title.

Mortgage not a personal obligation unless an express covenant, see title 3, section 2238.

Mortgage or pledge of personal property, remedies, see title 3, sections 2267, and 2281 to 2306.

Pleading written document, see sections 242 to 244 of this title.

Foreclosure necessary to obtain possession, see section 667 of this title.

Receiver, see section 381 of this title.

Tender, see section 911 of this title.

642. **Surplus money to be deposited in court.**—If there be surplus money remaining, after payment of the amount due on the mortgage, lien, or encumbrance, with costs, the court may cause the same to be paid to the person entitled to it, and in the meantime may direct it to be deposited in court.

CROSS-REFERENCE

Deposit in court, see sections 391 and 392 of this title.

643. **Proceedings when debt secured falls due at different times.**—If the debt for which the mortgage, lien, or encumbrance is held is not all due, so soon as sufficient of the property has been sold to pay the amount due, with costs, the sale must cease; and afterwards, as often as more becomes due, for principal or interest,

the court may, on motion, order more to be sold. But if the property cannot be sold in portions, without injury to the parties, the whole may be ordered to be sold in the first instance, and the entire debt and costs paid, there being a rebate of interest where such rebate is proper.

644. Commissioner's oath, bond, report, and compensation.—The commissioner, before entering upon his duties, must be sworn to perform them faithfully, and the court making the appointment shall require of him an undertaking, with sufficient sureties, to be approved by the court, in an amount to be fixed by the court, to the effect that he will faithfully perform the duties of commissioner according to law. Within thirty days after such sale, the commissioner must file with the clerk of the court in which the action is pending, a verified report and account of the sale, together with the proper affidavits, showing that the regular and required notice of the time and place of the sale was given, which report and account shall have the same force and effect as the marshal's return in sales under execution. In all cases of sales made by a commissioner, the court in which the proceedings are pending shall fix a reasonable compensation for the commissioner's services, but in no case to be less than the sum of $10.

ARTICLE 2.—ACTIONS FOR NUISANCE AND WASTE

Sec.
651. Nuisance defined; abatement of; actions instituted, by whom.
652. Waste, actions for.

651. Nuisance defined; abatement of; actions instituted, by whom.—An action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by a nuisance, as the same is defined in section 2801 of title 3, and by the judgment in such action the nuisance may be enjoined or abated as well as damages recovered therefor. A civil action may be brought in the name of the Government of the Canal Zone to abate a public nuisance as the same is defined in section 2802 of title 3, by the district attorney.

CROSS-REFERENCES

Nuisance generally, see title 3, sections 2801 to 2821.
Nuisance enjoined, see title 3, section 2684.
Public nuisance, see also title 5, sections 551 and 552.

652. Waste, actions for.—If a guardian, tenant for life or years, joint tenant, or tenant in common of real property, commit waste thereon, any person aggrieved by the waste may bring an action against him therefor, in which action there may be judgment for treble damages.

CROSS-REFERENCES

Waste, see section 669 of this title.
Enjoining, see section 668 of this title.

ARTICLE 3.—ACTIONS TO DETERMINE CONFLICTING CLAIMS TO PROPERTY, AND OTHER PROVISIONS RELATING TO ACTIONS CONCERNING REAL ESTATE

Sec.
661. Action to quiet title to real and personal property.
662. When plaintiff cannot recover costs.
663. Where plaintiff's right terminates pending suit, what he may recover.
664. When value of improvements can be allowed as a set-off.
665. An order may be made to allow a party to survey and measure the land in dispute.
666. Order, what to contain, and how served; if unnecessary injury done, the party surveying to be liable therefor.
667. A mortgage must not be deemed a conveyance, whatever its terms.
668. When court may grant injunction during foreclosure or after sale on execution, before conveyance.
669. Damages may be recovered for injury to the possession after sale and before delivery of possession.
670. Action not to be prejudiced by alienation pending suit.

661. Action to quiet title to real and personal property.—An action may be brought by any person against another who claims an estate or interest in real or personal property adverse to him, for the purpose of determining such adverse claim: *Provided, however*, That whenever in an action to quiet title to, or to determine adverse claims to, real or personal property, the validity or interpretation of any gift, devise, bequest, or trust, under any will or instrument purporting to be a will, whether admitted to probate or not, shall be involved, such will, or instrument purporting to be a will, is admissible in evidence; and all questions concerning the validity of any gift, devise, bequest, or trust therein contained, save such as belong exclusively to the probate jurisdiction, shall be determined in such action: *Provided, further*, That if the said will shall have been admitted to probate and interpreted by a decree of the district court, which decree has become final, such interpretation shall be conclusive as to the proper construction of said will, or any part thereof, so construed, in any action under this section: *And provided, further*, That nothing herein contained shall be construed to deprive a party of the right to a jury trial in any case where by the law such right is now given.

CROSS-REFERENCES

Possession of executors as possession of heirs for purposes of suit to quiet title, see section 1521 of this title.

Determining claim to personalty, see section 956 of this title.

Parties, see sections 133 and 137 of this title.

662. When plaintiff cannot recover costs.—If the defendant in such action disclaim in his answer any interest or estate in the property, or suffer judgment to be taken against him without answer, the plaintiff cannot recover costs.

CROSS-REFERENCE

Costs, see sections 1001 et seq. of this title.

663. Where plaintiff's right terminates pending suit, what he may recover.—In an action for the recovery of property, where the plaintiff shows a right to recover at the time the action was commenced, but it appears that his right has terminated during the pendency of the action, the verdict and judgment must be according to the fact, and the plaintiff may recover damages for withholding the property.

Cross-References

Pendency of action, see section 955 of this title.
Alienation pending action, see section 670 of this title.

664. When value of improvements can be allowed as a set-off.—When damages are claimed for withholding the property recovered, upon which permanent improvements have been made by a defendant, or those under whom he claims, holding under color of title adversely to the claim of the plaintiff, in good faith, the value of such improvements must be allowed as a set-off against such damages.

Cross-Reference

Counterclaim, see sections 223 and 224 of this title.

665. An order may be made to allow a party to survey and measure the land in dispute.—The court in which an action is pending for the recovery of real property, or for damages for an injury thereto, or the judge thereof may, on motion, upon notice by either party for good cause shown, grant an order allowing to such party the right to enter upon the property and make survey and measurement thereof, for the purpose of the action, even though entry for such purpose has to be made through other lands belonging to parties to the action.

666. Order, what to contain, and how served; if unnecessary injury done, the party surveying to be liable therefor.—The order must describe the property, and a copy thereof must be served on the owner or occupant; and thereupon such party may enter upon the property, with necessary surveyors and assistants, and make such survey and measurement; but if any unnecessary injury be done to the property he is liable therefor.

667. A mortgage must not be deemed a conveyance, whatever its terms.—A mortgage of real property shall not be deemed a conveyance, whatever its terms, so as to enable the owner of the mortgage to recover possession of the real property without a foreclosure and sale.

Cross-References

Conveyance deemed mortgage, see title 3, sections 2234 and 2235.
Mortgagee's possession, see title 3, section 2237.

668. When court may grant injunction during foreclosure or after sale on execution, before conveyance.—The court may, by injunction, on good cause shown, restrain the party in possession from doing any act to the injury of real property during the foreclosure of a mortgage thereon; or, after a sale on execution, before a conveyance.

Cross-References

Injunction generally, see sections 341 to 346 of this title.
Receiver, see section 381 of this title.
Waste, see title 3, section 2239.
Foreclosure of mortgage, see section 641 of this title.
Execution sales, see sections 594 et seq., of this title.

669. Damages may be recovered for injury to the possession after sale and before delivery of possession.—When real property has been sold on execution, the purchaser thereof, or any person who may have succeeded to his interest, may, after his estate becomes absolute, recover damages for injury to the property by the tenant in possession after sale, and before possession is delivered under the conveyance.

670. Action not to be prejudiced by alienation pending suit.—An action for the recovery of real property against a person in possession cannot be prejudiced by any alienation made by such person, either before or after the commencement of the action.

Cross-Reference

Termination of rights pending action, see section 663 of this title.

CHAPTER 14.—PROCEEDINGS IN MAGISTRATES' COURTS

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ARTICLE 1.—PLACE OF TRIAL OF ACTIONS IN MAGISTRATES' COURTS

Sec.
681. Actions, where must be commenced.
682. Place of trial may be changed in certain cases.
683. Proceedings after order changing place of trial.

Section 681. Actions, where must be commenced.—Actions in magistrates' courts must be commenced, and, subject to the right to change the place of trial, as in this article provided, must be tried:

1. In the subdivision in which the defendant resides;
2. When two or more persons are jointly, or jointly and severally, bound in any debt or contract, or otherwise jointly liable in the same action, and reside in different subdivisions—in either subdivision;
3. In cases of injury to the person or property—in the subdivision where the injury was committed, or where the defendant resides;
4. If for the recovery of personal property, or the value thereof, or damages for taking or detaining the same—in the subdivision in which the property may be found, or in which the property was taken, or in which the defendant resides;
5. When the defendant is a nonresident of the Canal Zone—in either subdivision;
6. When a person has contracted to perform an obligation at a particular place, and resides in the other subdivision—in the subdivision in which such obligation is to be performed, or in which he resides; and the subdivision in which the obligation is incurred is deemed to be the subdivision in which it is to be performed, unless there is a special contract in writing to the contrary;
7. When the parties voluntarily appear and plead without summons—in either subdivision;

8. In all other cases—in the subdivision in which the defendant resides.

CROSS-REFERENCES

Place of trial generally, see section 151 of this title.
Jurisdiction of magistrate's court, see title 7, section 2.

682. Place of trial may be changed in certain cases.—The court may, at any time before the trial, on motion, change the place of trial in the following cases:

1. When it appears to the satisfaction of the magistrate before whom the action is pending, by affidavit of either party, that such magistrate is a material witness for either party;

2. When either party makes and files an affidavit that he believes that he cannot have a fair and impartial trial before such magistrate, by reason of the interest, prejudice, or bias of the magistrate;

3. When, from any cause, the magistrate is disqualified from acting.

CROSS-REFERENCE

Change of venue generally, see section 153 of this title.

683. Proceedings after order changing place of trial.—After an order has been made, transferring the action for trial to another court, the following proceedings must be had:

1. The magistrate ordering the transfer must immediately transmit to the magistrate of the court to which it is transferred, on payment by the party applying of all the costs that have accrued, all the papers in the action, together with a certified transcript from his docket of the proceedings therein;

2. Upon the receipt by him of such papers, the magistrate to whom the case is transferred has thereafter the same jurisdiction over the action as though it had been commenced in his court.

ARTICLE 2.—MANNER OF COMMENCING ACTIONS IN MAGISTRATES' COURTS

Sec.
691. Actions, how commenced.
692. Summons may issue within a year.
693. Defendant may waive summons.
694. Parties may appear in person or by attorney.
695. When guardian necessary, how appointed.
696. Summons, how issued, directed, and what to contain.
697. Time for appearance of defendant.
698. Alias summons.
699. Same.
700. Service of summons outside of subdivision.
701. Summons, by whom and how served and returned.
702. Notice of hearing in magistrates' courts.

691. Actions, how commenced.—An action in a magistrate's court is commenced by filing a complaint.

CROSS-REFERENCES

Commencement of action, see sections 101 and 161 of this title.
Action, when pending, see section 955 of this title.
Complaint generally, see section 202 of this title.
Fees, see sections 981 et seq., of this title.

692. Summons may issue within a year.—The court must indorse on the complaint the date upon which it was filed, and at any time within one year thereafter the plaintiff may have summons issued.

CROSS-REFERENCE

Issuance of summons generally, see section 163 of this title.

693. Defendant may waive summons.—At any time after the complaint is filed, the defendant may, in writing, or by appearing and pleading, waive the issuing of summons.

CROSS-REFERENCES

Appearance generally, see section 945 of this title.
Waiver generally, see section 162 of this title.

694. Parties may appear in person or by attorney:—Parties in magistrates' courts may appear and act in person or by attorney.

CROSS-REFERENCE

Attorneys generally, see sections 41 et seq., of this title.

695. When guardian necessary, how appointed.—When an infant, insane, or incompetent person is a party, he must appear either by his general guardian, if he have one. or by a guardian ad litem appointed by the magistrate. When a guardian ad litem is appointed by the magistrate, he must be appointed as follows:

1. If the infant, insane, or incompetent person, be plaintiff, the appointment must be made before the summons is issued, upon the application of the infant, if he be of the age of fourteen years; if under that age, or if insane, or incompetent, upon the application of a relative or friend.

2. If the infant, insane, or incompetent person, be defendant, the appointment must be made at the time the summons is returned, or before the answer, upon the application of the infant, if he be of the age of fourteen years and apply at or before the summons is returned; if he be under the age of fourteen, or be insane or incompetent, or neglect so to apply, then upon the application of a relative or friend, or any other party to the action, or by the magistrate on his own motion.

CROSS-REFERENCES

Appearance by guardians generally, see sections 127, 128 of this title.
Guardian to conduct action by infant, see title 3, section 34.

696. Summons, how issued, directed, and what to contain.—The summons must be directed to the defendant, signed by the magistrate, and must contain:

1. The title of the court, name of the subdivision in which the action is brought, and the names of the parties thereto;

2. A direction that the defendant appear and answer before the magistrate, as specified in the section next following;

3. A notice that unless the defendant so appear and answer, the plaintiff will take judgment for any money or damages demanded in the complaint, as arising upon contract, or will apply to the court for the relief demanded in the complaint. If the plaintiff appears by

attorney, the name of the attorney must be indorsed upon the summons.

CROSS-REFERENCE

Contents of summons generally, see section 163 of this title.

697. Time for appearance of defendant.—The time specified in the summons for the appearance of the defendant must be as follows:

1. If an order of arrest is indorsed upon the summons, forthwith;
2. In all other cases, within five days, if the summons is served in the subdivision, in which the action is brought; within ten days, if served in the other subdivision.

698. Alias summons.—If the summons is returned without being served upon any or all of the defendants, or if it has been lost, the magistrate, upon the demand of the plaintiff, may issue an alias summons, in the same form as the original, except that he may fix the time for the appearance of the defendant at a period not to exceed ninety days from its date.

CROSS-REFERENCE

Alias summons generally, see section 164 of this title.

699. Same.—The magistrate may, within a year from the date of the filing of the complaint, issue as many alias summonses as may be demanded by the plaintiff.

700. Service of summons outside of subdivision.—The summons cannot be served out of the subdivision wherein the action is brought, except in the following cases:

1. When the action is upon the joint contract or obligation of two or more persons, one of whom resides within the subdivision;
2. When the action is brought against a party who has contracted in writing to perform an obligation at a particular place, and resides in the other subdivision;
3. When the action is for injury to person or property, and the defendant resides in the other subdivision;
4. In all cases where the defendant was a resident of the subdivision when the action was brought, or when the obligation was incurred, and thereafter departed therefrom, in which event he may be served wherever he may be found;
5. In actions of forcible entry and detainer, or to enforce and foreclose liens on, or to recover possession of, personal property situated within the subdivision.

701. Summons, by whom and how served and returned.—The summons may be served by the constable of either of the magistrates' courts or by any other person of the age of eighteen years or over not a party to the action. When a summons issued by a magistrate is to be served out of the subdivision in which it is issued the summons must be served and returned as provided in chapter 8 of this title, or it may be served by publication and sections 168 and 169 of this title so far as they relate to the publication of summons are made applicable to magistrates' courts, the word "magistrate" being substituted for the word "judge" wherever the latter word occurs.

CROSS-REFERENCES

Service by publication, see section 168 of this title.
For chapter 8. see sections 161 et seq., of this title.

702. Notice of hearing in magistrates' courts.—When all the parties served with process shall have appeared, or some of them have appeared, and the remaining defendants have made default, the magistrate must fix the day for the trial of said cause, and give notice thereof to the parties to the action who have appeared, but in case any of the parties are represented by an attorney, then to such attorney: *Provided, however*, That where a party has appeared in person, such party shall leave with the magistrate or magistrate's clerk, and the same shall be entered upon the register in the action, an address where service of the notice of hearing of such matter may be made: *Provided, further*, That such notice shall be personally served on said person if he can be found at said address, but in case said person cannot, after due diligence, be found at said address and such fact appears by affidavit to the satisfaction of the magistrate, then the service of such notice may be by registered mail and in the manner hereinafter provided for service of notice by mail. Such notice shall be in writing, signed by the magistrate, and substantially in the following form, filling blanks according to the facts:

FORM OF NOTICE.—

In the Magistrate's Court, Subdivision of ———, Canal Zone.
——— plaintiff, *v.* ——— defendant
To ——— plaintiff, or ——— attorney for plaintiff, and to ——— defendant, or ——— attorney for defendant:

You and each of you will please take notice that the undersigned magistrate before whom the above-entitled cause is pending, has set for hearing the demurrer of ———, filed in said cause (or has set the said cause for trial, as the case may be), before me at ———, at —— o'clock — m., on the —— day of ———, 19—.

Dated this —— day of ———, 19—.
(Signed) ——— ———,
Magistrate.

SERVICE; SERVICE BY MAIL.—Said notice shall be served by mail or personally. When served by mail the magistrate shall deposit copies thereof in a sealed envelope in the post office at least ten days before the trial or hearing addressed to each of the persons on whom it is to be served at their place of residence: *Provided*, That such notice shall be served by mail only when the person on whom service is to be made resides out of the subdivision in which said magistrate's court is situated, or is absent therefrom or has appeared in person. When personally served said notice shall be served at least five days before the trial or hearing on the persons on whom it is to be served by any person competent and qualified to serve a summons in a magistrate's court, and when personally served it shall be served, returned and filed in like manner as a summons. When a party has appeared by attorney the notice may be served in the manner prescribed by subdivision 1 of section 942 of this title.

Docket entries.—The magistrate shall enter on his docket the date of trial or hearing; and when such notice shall have been served by mail the magistrate shall enter on his docket the date of mailing such notice of trial or hearing and such entry shall be prima facie evidence of the fact of such service. The parties are entitled to one hour in which to appear after the time fixed in said notice, but are not bound to remain longer than that time unless both parties have appeared and the magistrate being present is engaged in the trial of another cause.

Cross-Reference

Time of trial, see section 771 of this title.

ARTICLE 3.—PLEADINGS IN MAGISTRATES' COURTS

Sec.
711. Form of pleadings.
712. Pleadings in magistrates' courts.
713. Complaint defined.
714. When demurrer to complaint may be put in.
715. Answer, what to contain.
716. If the defendant omit to set up counterclaim.

Sec.
717. When plaintiff may demur to answer.
718. When affirmative judgment may be rendered for defendant.
719. The proceedings on demurrer.
720. Amendment of pleadings.
721. Answer or demurrer to amended pleadings.

711. Form of pleadings.—Pleadings in magistrates' courts—

1. Are not required to be in any particular form, but must be such as to enable a person of common understanding to know what is intended;
2. May, except the complaint, be oral or in writing;
3. Need not be verified, unless otherwise provided in this chapter;
4. If in writing, must be filed with the magistrate;
5. If oral, an entry of their substance must be made in the docket.

712. Pleadings in magistrates' courts.—The pleadings are:

1. The complaint by the plaintiff;
2. The demurrer to the complaint;
3. The answer by the defendant;
4. The demurrer to the answer.

Cross-Reference

List of pleadings generally, see section 193 of this title.

713. Complaint defined.—The complaint in magistrates' courts is a concise statement, in writing, of the facts constituting the plaintiff's cause of action; or a copy of the account, note, bill, bond, or instrument upon which the action is based.

Cross-Reference

Complaint generally, see section 201 of this title.

714. When demurrer to complaint may be put in.—The defendant may, at any time before answering, demur to the complaint.

Cross-Reference

Demurrer generally, see section 211 of this title.

715. Answer, what to contain.—The answer may contain a denial of any or all of the material facts stated in the complaint, which the defendant believes to be untrue, and also a statement, in a plain and direct manner, of any other facts constituting a defense or counterclaim, upon which an action might be brought by the defendant against the plaintiff, or his assignor, in a magistrate's court.

CROSS-REFERENCES

Answer generally, see section 221 of this title.
Counterclaim generally, see section 223 of this title.
Cross-complaint generally, see section 227 of this title.

716. If the defendant omit to set up counterclaim.—If the defendant omit to set up a counterclaim in the cases mentioned in the next preceding section, neither he nor his assignee can afterwards maintain an action against the plaintiff therefor.

CROSS-REFERENCE

Counterclaim waived, generally, see section 224 of this title.

717. When plaintiff may demur to answer.—When the answer contains new matter in avoidance, or constituting a defense or a counterclaim, the plaintiff may, at any time before the trial, demur to the same for insufficiency, stating therein the grounds of such demurrer.

CROSS-REFERENCE

Demurrer to answer, generally, see section 231 of this title.

718. When affirmative judgment may be rendered for defendant.—Affirmative judgment may be rendered for the defendant on his cross-complaint (counterclaim) whenever the defendant proves that he is entitled to more than the plaintiff has proven or whenever the plaintiff fails to prove that he is entitled to any judgment.

719. The proceedings on demurrer.—The proceedings on demurrer are as follows:

1. If the demurrer to the complaint is sustained, the plaintiff may, within such time, not exceeding two days, as the court allows, amend his complaint;
2. If the demurrer to a complaint is overruled, the defendant may answer forthwith;
3. If the demurrer to an answer is sustained, the defendant may amend his answer within such time, not exceeding two days, as the court may allow;
4. If the demurrer to an answer is overruled, the action must proceed as if no demurrer had been interposed.

CROSS-REFERENCE

Proceedings on demurrer, generally, see sections 274 and 504 of this title.

720. Amendment of pleadings.—Either party may, at any time before the conclusion of the trial, amend any pleading; but if the amendment is made after the issue, and it appears to the satisfaction of the court, by oath, that an adjournment is necessary to the adverse party in consequence of such amendment, an adjournment must be granted. The court may also, in its discretion, when an adjournment will by the amendment be rendered necessary, require as a condition to the allowance of such amendment, made after issue joined, the payment of costs to the adverse party.

Relief against judgment.—The court may also, on such terms as may be just, and on payment of costs, relieve a party from a judgment by default taken against him by his mistake, inadvertence, surprise, or excusable neglect, but the application for such relief must be made within ten days after notice of the entry of the judgment and upon an affidavit showing good cause therefor.

Cross-References

Amendment, and relief from judgment, generally, see section 275 of this title.
Adjournment because of, see section 772 of this title.

721. Answer or demurrer to amended pleadings.—When a pleading is amended, the adverse party may answer or demur to it within such time as the court may allow, not exceeding five days after notice of the amendment.

Cross-Reference

Time to plead, generally, when complaint is amended, see section 213 of this title.

ARTICLE 4.—PROVISIONAL REMEDIES IN MAGISTRATES' COURTS

A. Arrest and Bail

Sec.
731. Order of arrest, and arrest of defendant.
732. Affidavit and undertaking for order of arrest.
733. A defendant arrested must be taken before the magistrate immediately.
734. The officer must give notice to the plaintiff of arrest.
735. The officer must detain the defendant.

B. Attachment

Sec.
741. Issue of writ of attachment.
742. Attachment, undertaking on; exceptions to sureties.
743. To whom writ directed; what to require.
744. Certain provisions apply to all attachments in magistrates' courts.

C. Claim and Delivery of Personal Property

751. How claim and delivery enforced.

A. ARREST AND BAIL

731. Order of arrest, and arrest of defendant.—An order to arrest the defendant may be indorsed on a summons issued by the magistrate, and the defendant may be arrested thereon by the constable, at the time of serving the summons, and brought before the magistrate, and there detained until duly discharged, in the following cases:

1. In an action for the recovery of money or damages on a cause of action arising upon contract, express or implied, when the defendant is about to depart from the Canal Zone, with intent to defraud his creditors;

2. In an action for a fine or penalty, or for money or property embezzled or fraudulently misapplied, or converted to his own use by one who received it in a fiduciary capacity;

3. When the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought;

4. When the defendant has removed, concealed, or disposed of his property, or is about to do so, with intent to defraud his creditors.

CROSS-REFERENCE

Arrest and bail, see sections 291 et seq., of this title.

732. Affidavit and undertaking for order of arrest.—Before an order for an arrest can be made, the party applying must prove to the satisfaction of the magistrate by the affidavit of himself, or some other person, the facts upon which the application is founded. The plaintiff must also execute and deliver to the magistrate a written undertaking in the sum of $300, with sufficient sureties, to the effect that the plaintiff will pay all costs that may be adjudged to the defendant, and all damages which he may sustain by reason of the arrest, if the same be wrongful, or without sufficient cause, not exceeding the sum specified in the undertaking.

CROSS-REFERENCES

Affidavit and undertaking for arrest, generally, see sections 293, 294 of this title.

Qualification of sureties, see section 963 of this title.

733. A defendant arrested must be taken before the magistrate immediately.—The defendant, immediately upon being arrested, must be taken before the magistrate who made the order, and if he is absent or unable to try the action, or if it appears to him by the affidavit of the defendant that he is a material witness in the action, the officer must immediately take the defendant before the magistrate of the other subdivision, who must take jurisdiction of the action and proceed thereon, as if the summons had been issued and the order of arrest made by him.

734. The officer must give notice to the plaintiff of arrest.—The officer making the arrest must immediately give notice thereof to the plaintiff, or his attorney or agent, and indorse on the summons, and subscribe a certificate, stating the time of serving the same, the time of the arrest, and of his giving notice to the plaintiff.

735. The officer must detain the defendant.—The officer making the arrest must keep the defendant in custody until he is discharged by order of the magistrate.

B. ATTACHMENT

741. Issue of writ of attachment.—A writ to attach the property of the defendant must be issued by the magistrate at the time of or after issuing summons in actions in which the sum claimed exclusive of interest exceeds $10, on receiving an affidavit by or on behalf of the plaintiff, showing the same facts as are required to be shown by the affidavit specified in section 352 of this title.

CROSS-REFERENCE

Attachment, generally, see sections 351 et seq., of this title.

742. Attachment, undertaking on; exceptions to sureties.—Before issuing the writ, the magistrate must require a written undertaking on the part of the plaintiff, with two or more sufficient sureties, in a sum not less than $50 nor more than $300, to the effect that if the defendant recovers judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking. At any time after the issuing of the attachment, but not later than five days after the notice of its levy, the defendant may except to the sufficiency of the sureties. If he fails to do so, he is deemed to have waived all objections to them. When excepted to they must justify in the manner and within the time provided in section 353 of this title, otherwise the magistrate must order the writ of attachment vacated.

CROSS-REFERENCE

Undertaking on attachment generally, see section 353 of this title.

743. To whom writ directed; what to require.—The writ must be directed to the constable and must require him to attach and safely keep all of the property of the defendant within his subdivision not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand against the defendant, the amount of which must be stated in conformity with the complaint, unless the defendant, whose property has been or is about to be attached, give him security by the undertaking of two sufficient sureties, in an amount sufficient to satisfy such demand against such defendant besides costs; in which case to take such undertaking.

In the event that the action is against more than one defendant, any defendant whose property has been or is about to be attached in such action may give the constable such undertaking, and the constable shall take the same, and such undertaking shall not subject such defendant to or be answerable for any demand against any other defendant, nor shall the constable thereby be prevented from attaching or be obliged to release from attachment, any property of any other defendant: *Provided, however*, That such defendant, at the time of giving such undertaking to the constable, shall file with the constable a statement duly verified under oath, wherein such defendant shall aver and declare that the other defendant or defendants in the action in which said undertaking was given has or have not any interest or claim of any nature whatsoever in or to said property. Such statement must further contain the character of such defendant's title and the manner in which he acquired title to such attached property.

SERVICE OUT OF SUBDIVISION.—A writ may be issued at the same time to the constable of the other subdivision.

CROSS-REFERENCE

Contents of writ generally, see section 354 of this title.

744. Certain provisions apply to all attachments in magistrates' courts.—Section 168 and sections 355 to 374 of this title are applicable to attachments issued in magistrates' courts, the word "constable" being substituted for the word "marshal", and the word "magistrate" being substituted for the word "judge."

CROSS-REFERENCE

Property attachable, see section 355 of this title.

C. CLAIM AND DELIVERY OF PERSONAL PROPERTY

751. How claim and delivery enforced.—In an action to recover possession of personal property, the plaintiff may, at the time of issuing summons or at any time thereafter before answer, claim the delivery of such property to him; and sections 322 to 333 of this title are applicable to such claim when made in magistrates' courts, the powers therein given and duties imposed on the marshal being extended to constables, and the word "magistrate" substituted for "judge."

CROSS-REFERENCE

Claim and delivery of personalty in district court, see sections 321 to 333 of this title.

ARTICLE 5.—JUDGMENT BY DEFAULT IN MAGISTRATES' COURTS

Sec.
761. Judgment when defendant fails to appear.
762. Judgment by default.

761. Judgment when defendant fails to appear.—If the defendant fails to appear and to answer or demur within the time specified in the summons, then, upon proof of service of summons, the following proceedings must be had—

1. If the action is based upon a contract, and is for the recovery of money, or damages only, the court must render judgment in favor of plaintiff for the sum specified in the summons.

2. In all other actions the court must hear the evidence offered by the plaintiff, and must render judgment in his favor for such sum (not exceeding the amount stated in the summons), as appears by such evidence to be just.

CROSS-REFERENCE

Default judgment, generally, see section 421 of this title.

762. Judgment by default.—In the following cases the same proceedings must be had and judgment must be rendered in like manner as if the defendant had failed to appear and answer, or demur—

1. If the complaint has been amended, and the defendant fails to answer it, as amended, within the time allowed by the court;

2. If the demurrer to the complaint is overruled, and the defendant fails to answer within the time allowed by the court, not to exceed five days;

3. If the demurrer to the answer is sustained and the defendant fails to amend the answer within the time allowed by the court.

ARTICLE 6.—TIME OF TRIAL AND POSTPONEMENTS IN MAGISTRATES' COURTS

Sec.
771. Time when trial must be commenced.
772. When court may, of its own motion, postpone trial.
773. Postponement by consent.
774. Postponement upon application of a party.
775. No continuance for more than ten days to be granted, unless upon filing of undertaking.

771. Time when trial must be commenced.—Unless postponed, as provided in this article, or unless transferred to the other subdivision, the trial of the action must commence at the expiration of one hour from the time specified in the notice mentioned in section 702 of this title, and the trial must be continued, without adjournment for more than twenty-four hours at any one time, until all the issues therein are disposed of.

772. When court may, of its own motion, postpone trial.—The court may, of its own motion, postpone the trial—

1. For not exceeding one day, if, at the time fixed by law or by an order of the court for the trial, the court is engaged in the trial of another action;

2. For not exceeding two days, if, by an amendment of the pleadings, or the allowance of time to make such amendment or to plead, a postponement is rendered necessary.

CROSS-REFERENCE

Amendment of pleadings, see sections 719 and 720 of this title.

773. Postponement by consent.—The court may, by consent of the parties, given in writing or in open court, postpone the trial to a time agreed upon by the parties.

774. Postponement upon application of a party.—The trial may be postponed upon the application of either party, for a period not exceeding four months—

1. The party making the application must prove, by his own oath or otherwise, that he cannot, for want of material testimony, which he expects to procure, safely proceed to trial, and must show in what respect the testimony expected is material, and that he has used due diligence to procure it and has been unable to do so;

2. If the application is on the part of the plaintiff, and the defendant is under arrest, a postponement for more than three hours discharges the defendant from custody, but the action may proceed notwithstanding, and the defendant is subject to arrest on execution, in the same manner as if he had not been discharged;

3. If the application is on the part of a defendant under arrest, before it can be granted he must execute an undertaking, with two or more sufficient sureties, to be approved by, and in a sum to be fixed by, the magistrate, to the effect that he will render himself amenable to the process of the court during the pendency of the action, and to such as may be issued to enforce the judgment therein; or that the sureties will pay to the plaintiff the amount of any judgment which he may recover in the action, not exceeding the amount specified in the undertaking. On filing the undertaking specified in

this subdivision, the magistrate must order the defendant to be discharged from custody.

4. The party making the application must, if required by the adverse party, consent that the testimony of any witness of such adverse party, who is in attendance, may be then taken by deposition before the magistrate, and that the testimony so taken may be read on the trial, with the same effect, and subject to the same objections, as if the witness was produced;

But the court may require the party making the application to state, upon affidavit, the evidence which he expects to obtain; and if the adverse party thereupon admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial must not be postponed.

CROSS-REFERENCES

Postponement, generally, see section 438 of this title.
Costs on postponement, see section 1008 of this title.

775. No continuance for more than ten days to be granted, unless upon filing of undertaking.—No adjournment must, unless by consent, be granted for a period longer than ten days, upon the application of either party, except upon condition that such party file an undertaking, in an amount fixed by the magistrate, with two sureties, to be approved by the magistrate, to the effect that they will pay to the opposite party the amount of any judgment which may be recovered against the party applying, not exceeding the sum specified in the undertaking.

ARTICLE 7.—TRIALS IN MAGISTRATES' COURTS

Sec.
781. Issue defined, and the different kinds.
782. Issue of law, how raised.
783. Issue of fact, how raised.
784. Issues, how tried.
785. Either party failing to appear, trial may proceed at request of other party.
786. Requiring exhibition of original instrument.
787. Complaint, when accompanying instrument deemed genuine.

781. Issue defined, and the different kinds.—Issues arise upon the pleadings when a fact or conclusion of law is maintained by the one party and is controverted by the other. They are of two kinds—

1. Of law; and
2. Of fact.

CROSS-REFERENCE

Issues, generally, see sections 431 to 433 of this title.

782. Issue of law, how raised.—An issue of law arises upon a demurrer to the complaint or answer, or to some part thereof.

CROSS-REFERENCE

Identical section, see section 432 of this title.

783. Issue of fact, how raised.—An issue of fact arises—

1. Upon a material allegation in the complaint controverted by the answer; and

2. Upon new matter in the answer, except an issue of law is joined thereon.

CROSS-REFERENCE

Identical section, see section 433 of this title.

784. Issues, how tried.—Issues, both of law and of fact, must be tried by the court.

CROSS-REFERENCE

Similar section, see section 434 of this title.

785. Either party failing to appear, trial may proceed at request of other party.—If either party fails to appear at the time fixed for trial, the trial may proceed at the request of the adverse party.

CROSS-REFERENCE

For the purpose of comparison, see section 437 of this title.

786. Requiring exhibition of original instrument.—When the cause of action or counterclaim arises upon an account or instrument for the payment of money only, the court, at any time before the trial, may, by an order under his hand, require the original to be exhibited to the inspection of, and a copy to be furnished to, the adverse party, at such time as may be fixed in the order; or, if such order is not obeyed, the account or instrument cannot be given in evidence.

CROSS-REFERENCES

Order for inspection, see section 921 of this title.
Delivering copy of account, see section 253 of this title.
Pleading of written instrument, see sections 242 to 244 of this title.

787. Complaint, when accompanying instrument deemed genuine.—If the complaint of the plaintiff, or the answer of the defendant, contains a copy, or consists of the original of the written obligation upon which the action is brought or the defense founded, the genuineness and due execution of such instrument are deemed admitted, unless the answer denying the same is verified, or unless the plaintiff, within two days after the service on him of such answer, files with the magistrate an affidavit denying the same, and serves a copy thereof on the defendant.

CROSS-REFERENCE

For purpose of comparison, see sections 242, 243, and 713 of this title.

ARTICLE 8.—JUDGMENTS, OTHER THAN BY DEFAULT, IN MAGISTRATES' COURTS

Sec.
791. Judgment by confession.
792. Judgment of dismissal entered in certain cases without prejudice.
793. Entry of judgment of dismissal.
794. Entry of judgment in thirty days.
795. Form of magistrate's judgment; notice.
796. If the sum found due exceeds the jurisdiction of the magistrate, the excess may be remitted.
797. Offer to compromise before trial.
798. Costs must be included in the judgment.
799. Abstract of judgment.
800. Correction of clerical mistakes in judgment.

791. Judgment by confession.—Judgments upon confession may be entered up in either magistrate's court specified in the confession.

CROSS-REFERENCE

Confession of judgment, generally, see sections 1101 to 1104 of this title.

792. Judgment of dismissal entered in certain cases without prejudice.—Judgment that the action be dismissed, without prejudice to a new action, may be entered with costs, in the following cases:

1. When the plaintiff voluntarily dismisses the action before it is finally submitted; or fails to prosecute the action to judgment with reasonable diligence; provided a counterclaim has not been made, or affirmative relief sought by the cross-complaint or answer of the defendant; if a provisional remedy has been allowed, the undertaking must thereupon be delivered by the magistrate to the defendant who may have his action thereon;
2. When he fails to appear at the time specified in the summons, or at the time to which the action has been postponed, or within one hour thereafter;
3. When, after a demurrer to the complaint has been sustained, the plaintiff fails to amend it within the time allowed by the court;
4. When the action is brought in the wrong subdivision.

Cross-Reference

For purpose of comparison, see section 415 of this title.

793. Entry of judgment of dismissal.—Judgment of dismissal must be entered whenever the plaintiff fails to bring the action to trial within two years after the case is brought to an issue of law or fact, except where the parties have stipulated in writing that the time may be extended.

794. Entry of judgment in thirty days.—Judgment must be entered within thirty days after the submission of the case to the court.

795. Form of magistrate's judgment; notice.—The judgment of a magistrate must be entered substantially in the form required in section 544 of this title, and where the defendant is subject to arrest and imprisonment thereon the fact must be stated in the judgment. No judgment shall have effect for any purpose until so entered.

Notice of the rendition of judgment must be given to the parties to the action in writing signed by the magistrate. Where any of the parties are represented by an attorney, notice shall be given to the attorney. Said notice shall be served by mail or personally, and shall be substantially in the form of the abstract of judgment required in section 799 of this title. When served by mail the magistrate shall deposit copies thereof in a sealed envelope in the post office not later than five days after the rendition of the judgment, addressed to each of the persons on whom notice is to be served at his place of residence, or place of business if on an attorney. When served personally said notice shall be served within five days after the rendition of the judgment. Entry of the date of mailing shall be made by the magistrate in his docket.

Cross-Reference

Arrest and bail, see sections 731 to 735 of this title.

796. If the sum found due exceeds the jurisdiction of the magistrate, the excess may be remitted.—When the amount found due to either party exceeds the sum for which the magistrate is authorized to enter judgment, such party may remit the excess, and judgment may be rendered for the residue.

CROSS-REFERENCE

Limit, $500, see title 7, section 2.

797. Offer to compromise before trial.—If the defendant, at any time before the trial, offers, in writing, to allow judgment to be taken against him for a specified sum, the plaintiff may immediately have judgment therefor, with the costs then accrued; but if he does not accept such offer before the trial, and fails to recover in the action a sum in excess of the offer, he cannot recover costs incurred after the offer, but costs must be adjudged against him, and, if he recovers, be deducted from his recovery. The offer and failure to accept it cannot be given in evidence nor affect the recovery, otherwise than as to costs.

CROSS-REFERENCE

Offer to compromise generally, see sections 911 and 2154 of this title.

798. Costs must be included in the judgment.—The magistrate must tax and include in the judgment the costs allowed by law to the prevailing party.

CROSS-REFERENCE

Costs, see sections 1006 and 1007 of this title.

799. Abstract of judgment.—The magistrate, on the demand of a party in whose favor judgment is rendered, must give him an abstract of the judgment in substantially the following form (filling blanks according to the facts):

Canal Zone, Magistrate's Court, Subdivision of ———, ———, plaintiff, v. ————, defendant. Judgment entered for plaintiff (or defendant) for $ ————, on the ——— day of ———.

I certify that the foregoing is a correct abstract of a judgment rendered in said action in this court.

——— ———, Magistrate.

Date of abstract ———.

800. Correction of clerical mistakes in judgment.—The magistrate shall have power upon motion of the injured party and notice to the adverse party to correct any clerical mistakes in his judgment as entered, so as to conform to the judgment ordered. Said magistrate shall have power to set aside any void judgment upon motion of either party to the action after notice to the adverse party, and thereupon said action shall be treated as if no judgment had been entered.

ARTICLE 9.—EXECUTIONS FROM MAGISTRATES' COURTS

Sec.
811. Execution may issue at any time within five years.
812. Stay of execution of judgment.
813. Contents of execution.

Sec.
814. Renewal of execution.
815. Duty of officer receiving execution.
816. Proceedings supplementary to execution.

811. Execution may issue at any time within five years.—Execution for the enforcement of a judgment of a magistrate's court may be issued by the magistrate who entered the judgment, or his successor in office, on the application of the party entitled thereto, at any time within five years from the entry of judgment.

CROSS-REFERENCES

After five years, generally, see section 586 of this title.
Execution generally, see sections 581 et seq., of this title.

812. Stay of execution of judgment.—The court, or the magistrate thereof, may stay the execution of any judgment, including any judgment in a case of forcible entry or unlawful detainer, for a period not exceeding ten days.

CROSS-REFERENCE

Execution in forcible entry and detainer, see section 1154 of this title.

813. Contents of execution.—The execution must be directed to the constable, and must be subscribed by the magistrate and bear date the day of its delivery to the officer. It must intelligibly refer to the judgment, by stating the names of the parties, and the name of the magistrate before whom, and of the subdivision where, and the time when it was rendered; the amount of judgment, if it be for money; and, if less than the whole is due, the true amount due thereon. It must contain, in like cases, similar directions to the constable, as are required by the provisions of chapter 12 of this title, in an execution to the marshal.

CROSS-REFERENCES

Compare sections 581 et seq., of this title.
For chapter 12, see sections 581 et seq., of this title.

814. Renewal of execution.—An execution may, at the request of the judgment creditor, be renewed before the expiration of the time fixed for its return, by the word "renewed" written thereon, with the date thereof, and subscribed by the magistrate. Such renewal has the effect of an original issue, and may be repeated as often as necessary. If an execution is returned unsatisfied, another may be afterwards issued.

815. Duty of officer receiving execution.—The constable to whom the execution is directed must execute the same in the same manner as the marshal is required by the provisions of chapter 12 of this title, to proceed upon executions directed to him; and the constable, when the execution is directed to him, is vested for that purpose with all the powers of the marshal.

CROSS-REFERENCE

Execution of writ, compare sections 591 et seq., of this title.

816. Proceedings supplementary to execution.—Sections 621 to 628 of this title are applicable to magistrates' courts, the word "constable" being substituted, to that end, for the word "marshal", and the word "magistrate" for "judge." If the judgment debtor does not reside in the subdivision wherein the judgment was entered, an abstract of the judgment, in the form prescribed by section 799 of this title, may be filed in the office of the magistrate of the subdivision wherein the defendant resides, and such magistrate may issue execution on such judgment, and may take and exercise such jurisdiction in proceedings supplemental to execution, as if such judgment were originally entered in his court.

CROSS-REFERENCE

Proceedings supplementary to execution, see sections 621 to 628 of this title.

ARTICLE 10.—CONTEMPTS IN MAGISTRATES' COURTS

821. What sections govern contempts.—Contempts in magistrates' courts are governed by sections 1161 to 1174 of this title.

ARTICLE 11.—DOCKETS OF MAGISTRATES

Sec.
831. Docket, what to contain.
832. Entries therein prima facie evidence of the fact.
833. An index to the docket must be kept.
834. Dockets must be delivered by magistrate to his successor.

831. Docket, what to contain.—Each magistrate must keep a book, denominated a " docket ", in which he must enter:

1. The title of every action or proceeding.
2. The object of the action or proceeding; and if a sum of money be claimed, the amount thereof.
3. The date of the summons, and the time of its return; and if an order to arrest the defendant be made, or a writ of attachment be issued, a statement of the fact.
4. The time when the parties, or either of them, appear, or their nonappearance, if default be made; a minute of the pleadings and motions; if in writing, referring to them; if not in writing, a concise statement of the material parts of the pleading.
5. Every adjournment, stating on whose application and to what time.
6. The judgment of the court, specifying the costs included and the time when rendered.
7. The issuing of the execution, when issued and to whom; the renewals thereof, if any, and when made, and a statement of any money paid to the magistrate, when and by whom.
8. The receipt of a notice of appeal, if any be given, and of the appeal bond.

832. Entries therein prima facie evidence of the fact.—The several particulars of the last section specified must be entered under the title of the action to which they relate, and (unless otherwise in this chapter provided) at the time when they occur. Such entries in a magistrate's docket, or a transcript thereof, certified by the magistrate, or his successor in office, are prima facie evidence of the facts so stated.

CROSS-REFERENCE

Prima facie evidence, see section 1851 of this title.

833. An index to the docket must be kept.—A magistrate must keep an alphabetical index to his docket, in which must be entered the names of the parties to each judgment, with a reference to the page of entry. The names of the plaintiffs must be entered in the index, in the alphabetical order of the first letter of the family name.

834. Dockets must be delivered by magistrate to his successor.—Every magistrate, upon the expiration of his term of office, must deposit with his successor his official dockets and all papers filed in his office, as well his own as those of his predecessors, or any other which may be in his custody to be kept as public records.

ARTICLE 12.—GENERAL PROVISIONS RELATING TO MAGISTRATES' COURTS

Sec.
841. Magistrates may issue subpenas and final process to any part of the subdivision.
842. Blanks must be filled in all papers issued by a magistrate, except subpenas.
843. Magistrates to receive all moneys collected and pay the same to parties.

Sec.
844. In case of disability of magistrate, other magistrate may attend on his behalf.
845. Magistrates may require security for costs.
846. Deposit in lieu of undertaking.
847. What provisions of title applicable to magistrates' courts.

841. Magistrates may issue subpenas and final process to any part of the subdivision.—Magistrates may issue subpenas in any action or proceeding in the courts held by them, and final process on any judgment recovered therein, to any part of the subdivision.

842. Blanks must be filled in all papers issued by a magistrate, except subpenas.—The summons, execution, and every other paper made or issued by a magistrate, except a subpena, must be issued without a blank left to be filled by another, otherwise it is void.

843. Magistrates to receive all moneys collected and pay the same to parties.—Magistrates must receive from the constables, all moneys collected on any process or order issued from their courts respectively, and must pay the same, and all moneys paid to them in their official capacity, over to the parties entitled or authorized to receive them, without delay.

844. In case of disability of magistrate, other magistrate may attend on his behalf.—In case of the sickness or other disability or necessary absence of a magistrate, the other magistrate may, at his request, attend in his behalf, and thereupon is vested with the power and may perform all the duties and issue all the papers or process of the absent magistrate. In case of a trial the proper entry of the proceedings before the attending magistrate, subscribed by him, must be made in the docket of the magistrate before whom the summons was returnable. If the case is adjourned, the magistrate before whom the summons was returnable may resume jurisdiction.

845. Magistrates may require security for costs.—Magistrates may in all cases require a deposit of money or an undertaking, as security for costs of court, before issuing a summons.

CROSS-REFERENCE

Prepayment of fees, see section 982 of this title.

846. Deposit in lieu of undertaking.—In all civil cases arising in magistrates' courts, wherein an undertaking is required as prescribed in this title, the plaintiff or defendant may deposit with said magistrate a sum of money in United States currency equal to the amount required by the said undertaking, which said sum of money shall be taken as security in place of said undertaking.

847. What provisions of title applicable to magistrates' courts.—Magistrates' courts being courts of limited jurisdiction, only those provisions of this title which are, in their nature, applicable to the organization, powers, and course of proceedings in magistrates' courts, or which have been made applicable by special provisions in this chapter, are applicable to magistrates' courts and the proceedings therein.

CHAPTER 15.—APPEALS IN CIVIL ACTIONS

Sec. Art.
1. Review by judge of orders made out of court.................. 861
2. Appeals to United States Circuit Court of Appeals.............. 871
3. Appeals to district court.......... 881

ARTICLE 1.—REVIEW BY JUDGE OF ORDERS MADE OUT OF COURT

Section 861. Orders made out of court, without notice, may be reviewed by the judge.—An order made out of court, without notice to the adverse party, may be vacated or modified, without notice, by the judge who made it; or may be vacated or modified on notice, in the manner in which other motions are made.

CROSS-REFERENCE

Orders generally, see sections 931 et seq., of this title.

ARTICLE 2.—APPEALS TO UNITED STATES CIRCUIT COURT OF APPEALS

871. Appeals to circuit court of appeals, how governed.—Appeals from the district court to the United States Circuit Court of Appeals for the Fifth Circuit are governed by sections 61 and 62 of title 7.

CROSS-REFERENCE

Time for making application for appeal, see U.S. Code, title 28, section 230 (appendix, p. 983).

ARTICLE 3.—APPEALS TO DISTRICT COURT

Sec.
881. Appeals to district court.
882. Appeal on question of law.
883. Appeal on questions of fact, or law and fact.
884. Transmission of papers to district court.
885. Undertaking on appeal.
886. Filing of undertaking; exception to and justification of sureties.
887. Stay of proceedings on filing undertaking.
888. Powers of district court on appeal.
889. No appeal effective unless fees for filing are paid.
890. Dismissal of appeals from magistrate's court where not brought to trial within one year.
891. Papers returned on dismissal of appeal.

881. Appeals to district court.—Any party dissatisfied with the judgment rendered in a civil action in a magistrate's court, may appeal therefrom to the district court, at any time within thirty days after notice of the rendition of the judgment. The appeal is taken by filing a notice of appeal with the magistrate, and serving a copy on the adverse party. The notice must state whether the appeal is taken from the whole or a part of the judgment, and if from a part, what part, and whether the appeal is taken on questions of law or fact or both.

CROSS-REFERENCES

Service of notice of appeal on adverse party, see sections 941 et seq., of this title.
Jurisdiction of district court over appeals, see title 7, section 23.

882. **Appeal on question of law.**—When a party appeals to the district court on a question of law alone, he must, within ten days after notice of the rendition of judgment, prepare a statement of the case and file the same with the magistrate. The statement must contain the grounds upon which the party intends to rely upon the appeal, and so much of the evidence, as may be necessary to explain the grounds, and no more. Within ten days after receiving notice that the statement is filed, the adverse party, if dissatisfied with the same, may file amendments. The proposed statement and amendments must be settled by the magistrate, and if no amendment be filed the original statements stand as adopted. The statement thus adopted or as settled by the magistrate, with a copy of the docket of the magistrate, and all motions filed with him by the parties, during the trial and the notice of appeal, may be used on the hearing of the appeal before the district court.

883. **Appeal on questions of fact, or law and fact.**—When a party appeals to the district court on questions of fact, or on questions of both law and fact, no statement need be made, but the action must be tried anew in the district court.

CROSS-REFERENCE

Conduct of trial, see section 888 of this title.

884. **Transmission of papers to district court.**—Upon receiving the notice of appeal, and on payment of the fees of the magistrate, payable on appeal and not included in the judgment, and filing an undertaking as required in the section next following, and after settlement or adoption of statement, if any, the magistrate must, within five days, transmit to the clerk of the district court, if the appeal be on questions of law alone, a certified copy of his docket, the statement as admitted or as settled, the notice of appeal, and the undertaking filed; or, if the appeal be on questions of fact, or both law and fact, a certified copy of his docket, the pleadings, all notices, motions, and all other papers filed in the cause, the notice of appeal, and the undertaking filed; and the magistrate may be compelled by the district court, by an order entered upon motion, to transmit such papers, and may be fined for neglect or refusal to transmit the same. A certified copy of such order may be served on the magistrate by the party or his attorney. In the district court, either party may have the benefit of all legal objections made in the magistrate's court.

885. **Undertaking on appeal.**—An appeal from a magistrate's court is not effectual for any purpose, unless an undertaking be filed with two or more sureties in the sum of $25 for the payment

of the costs on the appeal, or, if a stay of proceedings be claimed, in the sum of $25 plus a sum equal to the amount of the judgment, including costs, when the judgment is for the payment of money; or plus twice the value of the property including costs, when the judgment is for the recovery of specific personal property; and must be conditioned, when the action is for the recovery of money, that the appellant will pay the amount of the judgment appealed from, and all costs, if the appeal be withdrawn or dismissed, or the amount of any judgment and all costs that may be recovered against him in the action in the district court.

When the action is for the recovery of or to enforce or foreclose a lien on specific personal property, the undertaking must be conditioned that the appellant will pay the judgment and costs appealed from, and obey the order of the court made therein, if the appeal be withdrawn or dismissed, or any judgment and costs that may be recovered against him in said action in the district court, and will obey any order made by the court therein.

When the judgment appealed from directs the delivery of possession of real property, the execution of the same cannot be stayed unless a written undertaking be executed on the part of the appellant, with two or more sureties, to the effect that during the possession of such property by the appellant, he will not commit, or suffer to be committed any waste thereon, and that if the appeal be dismissed or withdrawn, or the judgment affirmed, or judgment be recovered against him in the action in the district court, he will pay the value of the use and occupation of the property from the time of the appeal until the delivery of possession thereof; or that he will pay any judgment and costs that may be recovered against him in said action in the district court, not exceeding a sum to be fixed by the magistrate of the court from which the appeal is taken. and which sum must be specified in the undertaking.

A deposit of the sum of $50 plus the amount of the judgment, including all costs appealed from, or plus the value of the property, including all costs, in actions for the recovery of specific personal property, with the magistrate, is equivalent to the filing of the undertaking, and in such cases the magistrate must transmit the money to the clerk of the district court to be by him paid out on the order of the court.

Cross-Reference

Qualification of sureties, see section 963 of this title.

886. Filing of undertaking; exception to and justification of sureties.—The undertaking on appeal must be filed within five days after the filing of the notice of appeal, and notice of the filing of the undertaking must be given to the respondent. The adverse party may except to the sufficiency of the sureties within five days after the filing of the undertaking, and unless they or other sureties justify before the magistrate within five days thereafter, upon notice to the adverse party, to the amounts stated in their affidavits, the appeal must be regarded as if no such undertaking had been given.

887. Stay of proceedings on filing undertaking.—If an execution be issued on the filing of the undertaking staying proceedings, the magistrate must, by order, direct the officer to stay all proceedings on the same. Such officer must, upon payment of his fees for services rendered on the execution, thereupon relinquish all property levied upon and deliver the same to the judgment debtor, together with all moneys collected from sales or otherwise. If his fees be not paid, the officer may retain so much of the property or proceeds thereof as may be necessary to pay the same.

888. **Powers of district court on appeal.**—Upon an appeal heard upon a statement of the case, the district court may review all orders affecting the judgment appealed from, and may set aside, or confirm, or modify any or all of the proceedings subsequent to and dependent upon such judgment, and may, if necessary or proper, order a new trial. When the action is tried anew, on appeal, the trial must be conducted in all respects as other trials in the district court. The provisions of this title as to changing the place of trial, and all the provisions as to trials in the district court, are applicable to trials on appeal in the district court. For a failure to prosecute an appeal, or unnecessary delay in bringing it to a hearing, the district court, after notice, may order the appeal to be dismissed, with costs; and if it appear to such court that the appeal was made solely for delay, it may add to the costs such damages as may be just, not exceeding 25 percent of the judgment appealed from. Judgments rendered in the district court on appeal shall have the same force and effect and may be enforced in the same manner as judgments in actions commenced in the district court.

CROSS-REFERENCES

Amendments, see section 275 of this title.
Trial de novo on appeal, see section 883 of this title.
New trial, see sections 531 et seq., of this title.

889. **No appeal effective unless fees for filing are paid.**—No appeal taken from a judgment rendered in a magistrate's court in civil matters shall be effectual for any purpose whatever unless the appellant shall, at the time of filing the notice of appeal, pay to the magistrate, in addition to the fee payable to the magistrate on appeal, a docket fee of $5 for filing the appeal and for placing the action on the calendar in the district court. Upon transmitting the papers on appeal, the magistrate shall transmit to the clerk of the district court the sum thus deposited for filing the appeal in the district court and for placing the action on the calendar. No notice of appeal shall be filed unless the fees herein provided for are paid in accordance with the provisions of this section.

890. **Dismissal of appeals from magistrate's court where not brought to trial within one year.**—No action heretofore or hereafter appealed from the magistrate's court to the district court, shall be further prosecuted, and no further proceedings shall be had therein, and all such actions heretofore or hereafter appealed, must be dismissed by the court to which the same shall have been appealed, on its own motion, or on the motion of any party interested therein, whether named in the complaint as a party or not, where the appealing party fails to bring such appeal to trial within one year from

the date of filing such appeal in said district court, unless such time be otherwise extended by a written stipulation by the parties to the action filed with the clerk of the district court to which the appeal is taken.

891. Papers returned on dismissal of appeal.—Upon dismissal of the appeal the clerk of the district court shall return all the papers to the court from which the appeal was taken, and the magistrate of said court shall have jurisdiction the same as if no appeal had been taken.

CHAPTER 16.—MISCELLANEOUS PROVISIONS

Art.	Sec.
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2. Offer of defendant to compromise	911
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ARTICLE 1.—PROCEEDINGS AGAINST JOINT DEBTORS

Sec.
901. Parties not summoned in action on joint contract may be summoned after judgment.
902. Summons in that case, what to contain, and how served.
903. Affidavit to accompany summons.
904. Answer; what it may contain.
905. What constitute the pleadings in the case.
906. Issues, how tried; verdict; what to be.

Section 901. Parties not summoned in action on joint contract may be summoned after judgment.—When a judgment is recovered against one or more of several persons, jointly indebted upon an obligation, by proceeding as provided in section 167 of this title, those who were not originally served with the summons, and did not appear to the action, may be summoned to show cause why they should not be bound by the judgment, in the same manner as though they had been originally served with the summons.

CROSS-REFERENCES

Joining parties severally liable upon instrument, see section 139 of this title

Proceedings where there are several defendants and part only are served see section 167 of this title.

Judgment against some defendants, proceeding continuing against others, see section 413 of this title.

Release of one joint debtor does not discharge others, see title 3, section 793.

902. Summons in that case, what to contain, and how served.—The summons, as provided in the next preceding section, must describe the judgment, and require the person summoned to show cause why he should not be bound by it, and must be served in the same manner, and returnable within the same time, as the original summons. It is not necessary to file a new complaint.

CROSS-REFERENCE

Contents and service, etc., of summons, see sections 163 et seq., of this title.

903. Affidavit to accompany summons.—The summons must be accompanied by an affidavit of the plaintiff, his agent, representative, or attorney, that the judgment, or some part thereof, remains unsatisfied, and must specify the amount due thereon.

904. Answer; what it may contain.—Upon such summons, the defendant may answer within the time specified therein, denying the judgment, or setting up any defense which may have arisen subsequently; or he may deny his liability on the obligation upon which the judgment was recovered, by reason of any defense existing at the commencement of the action.

CROSS-REFERENCE

Answer, generally, see section 221 of this title.

905. What constitute the pleadings in the case.—If the defendant, in his answer, denies the judgment, or sets up any defense which may have arisen subsequently, the summons, with the affidavit annexed, and the answer, constitute the written allegations in the case; if he denies his liability on the obligation upon which the judgment was recovered, a copy of the original complaint and judgment, the summons, with the affidavit annexed, and the answer, constitute such written allegations, subject to the right of the parties to amend their pleadings as in other cases.

906. Issues, how tried; verdict, what to be.—The issues formed may be tried as in other cases; but when the defendant denies, in his answer, any liability on the obligation upon which the judgment was rendered, if a verdict be found or a decision rendered against him, it must be for not exceeding the amount remaining unsatisfied on such original judgment, with interest thereon.

CROSS-REFERENCE

Trial. see sections 461 et seq., of this title.

ARTICLE 2.—OFFER OF DEFENDANT TO COMPROMISE

911. Proceedings on offer of the defendant to compromise after suit brought.—The defendant may, at any time before the trial or judgment, serve upon the plaintiff an offer to allow judgment to be taken against him for the sum or property, or to the effect therein specified. If the plaintiff accept the offer, and give notice thereof within five days, he may file the offer, with proof of notice of acceptance, and the clerk must thereupon enter judgment accordingly. If the notice of acceptance be not given, the offer is to be deemed withdrawn, and cannot be given in evidence upon the trial; and if the plaintiff fail to obtain a more favorable judgment, he cannot recover costs, but must pay the defendant's costs from the time of the offer.

CROSS-REFERENCES

Offer not an admission, see section 2154 of this title.
Offer equivalent to tender, see section 2151 of this title.
Offer valid without seal, see section 1934 of this title.
Compare section 797 of this title.
Judgment by confession, see section 1101 of this title.

ARTICLE 3.—INSPECTION OF WRITINGS

921. A party may demand inspection and copy of a book, paper, etc.—Any court in which an action is pending, or the judge thereof, may, upon notice, order either party to give to the other, within a specified time, an inspection and copy, or permission to take a copy, of entries of accounts in any book, or of any document or paper in his possession, or under his control, containing evidence relating to the merits of the action, or the defense therein. If compliance with the order be refused, the court may exclude the entries of accounts of the book, or the document, or paper from being given in evidence, or if wanted as evidence by the party applying may presume them, or direct the jury to presume them, to be such as he alleges them to be; and the court may also punish the party refusing for a contempt. This section is not to be construed to prevent a party from compelling another to produce books, papers, or documents, when he is examined as a witness.

CROSS-REFERENCES

Items of account, see section 253 of this title.

Compelling production of books, see sections 1970, 1971, and 2041 et seq., of this title.

Writing shown witness may be inspected by adverse party, see section 2123 of this title.

Inspection of writings, see section 244 of this title.

Contempt, disobedience of order of court, see section 1163 of this title.

ARTICLE 4.—MOTIONS AND ORDERS

Sec.
931. Order and motion defined.
932. Motions and orders, where made.
933. Notice of motion, when to be given.
934. Order for payment of money, how enforced.

931. Order and motion defined.—Every direction of a court or judge, made or entered in writing, and not included in a judgment, is denominated an order. An application for an order is a motion.

CROSS-REFERENCES

Conclusiveness of orders, see sections 1934, 1935, and 2006 of this title.

Form of orders in probate proceedings, see section 1681 of this title.

Power of court to amend, and to enforce, orders, see section 23 of this title.

Vacating order, see section 861 of this title.

932. Motions and orders, where made.—Motions must be made in the division, in which the action is pending. Orders made out of court may be made by the judge of the court in either division.

CROSS-REFERENCE

Powers of judge at chambers, see sections 27 and 30 of this title; and title 7, section 31.

933. Notice of motion, when to be given.—When a written notice of a motion is necessary, it must be given five days before the time appointed for the hearing.

CROSS-REFERENCE

Notice of motion and service thereof, see sections 941 et seq., of this title.

934. Order for payment of money, how enforced.—Whenever an order for the payment of a sum of money is made by a court pursuant to the provisions of this title, it may be enforced by execution in the same manner as if it were a judgment.

ARTICLE 5.—NOTICES AND FILING AND SERVICE OF PAPERS

Sec.
941. Notices and papers, how served.
942. Notices and papers, when and how served.
943. Service by mail, when.
944. Service by mail, how.
945. Appearance; notices after appearance.
946. Service on nonresidents.
947. Preceding provisions not to apply to process or to contempt.

941. Notices and papers, how served.—Notices must be in writing, and the notice of a motion, other than for a new trial, must state when, and the grounds upon which it will be made, and the papers, if any, upon which it is to be based. If any such paper has not previously been served upon the party to be notified and was not filed by him, a copy of such paper must accompany the notice. Notices and other papers may be served upon the party or attorney in the manner prescribed in this article, when not otherwise provided by this title.

942. Notices and papers, when and how served.—The service may be personal, by delivery to the party or attorney on whom the service is required to be made, or it may be as follows:

1. If upon an attorney, it may be made during his absence from his office, by leaving the notice or other papers with his clerk therein, or with a person having charge thereof; or when there is no person in the office, by leaving them between the hours of nine in the morning and five in the afternoon, in a conspicuous place in the office; or, if it is not open so as to admit of such service, then by leaving them at the attorney's residence, with some person of not less than eighteen years of age, if his residence is in the same division with his office; and if his residence is not known, or is not in the same division with his office, or being in the same division it is not open, or there is not found thereat any person of not less than eighteen years of age, then by putting the same, inclosed in a sealed envelope, into the post office directed to such attorney at his office, if known; otherwise to his residence, if known; and if neither his office nor his residence is known, then by delivering the same to the clerk of the court for the attorney;

2. If upon a party, it may be made by leaving the notice or other paper at his residence, between the hours of eight in the morning and six in the evening, with some person of not less than eighteen years of age; if at the time of attempted service between the said hours no such person can be found at his residence, the same may be served by mail; and, if his residence is not known, then by delivering the same to the clerk of the court for such party.

CROSS-REFERENCES

Service on attorney, see section 946 of this title.
Extension of time for service, see section 960 of this title.
Proof of service, by affidavit, see section 2071 of this title.

943. Service by mail, when.—Service by mail may be made where the person making the service and the person on whom it is to be made reside or have their offices in different places between which there is a regular communication by mail.

944. Service by mail, how.—In case of service by mail, the notice or other paper must be deposited in the post office, in a sealed envelope addressed to the person on whom it is to be served, at his office or place of residence. The service is complete at the time of the deposit.

945. Appearance; notices after appearance.—A defendant appears in an action when he answers, demurs, or gives the plaintiff written notice of his appearance, or when an attorney gives notice of appearance for him. After appearance, a defendant or his attorney is entitled to notice of all subsequent proceedings of which notice is required to be given. But where a defendant has not appeared, service of notice or papers need not be made upon him unless he is imprisoned for want of bail.

CROSS-REFERENCES

Appearance, waiver of summons, see sections 162 and 171 of this title.
Appearance as curing defective service, see section 416 of this title.
Waiver of notice by appearance, see section 1219 of this title.
Appearance in forcible entry and detainer, see section 1151 of this title.

946. Service on nonresidents.—When a plaintiff or a defendant, who has appeared, resides out of the Canal Zone, and has no attorney in the action or proceeding, the service may be made on the clerk for him. But in all cases where a party has an attorney in the action or proceeding, the service of papers, when required, must be upon the attorney instead of the party, except service of subpenas, of writs, and other process issued in the suit, and of papers to bring him into contempt. If the sole attorney for a party is removed or suspended from practice, then the party has no attorney within the meaning of this section. If his sole attorney has no known office in the Canal Zone, notices and papers may be served by leaving a copy thereof with the clerk of the court, unless such attorney shall have filed in the cause an address of a place at which notices and papers may be served on him, in which event they may be served at such place.

CROSS-REFERENCES

Attorney, duties and authority, see sections 47 and 48 of this title.
Manner of service, see section 942 of this title.
Service of subpena, see section 2043 of this title.

947. Preceding provisions not to apply to process or to contempt.—The foregoing provisions of this article do not apply to the service of a summons or other process, or of any paper to bring a party into contempt.

ARTICLE 6.—GENERAL PROVISIONS

Sec.
951. Lost papers, how supplied.
952. Papers without the title of the action, or with defective title, may be valid.
953. Successive actions on the same contract, etc.
954. Severance and consolidation.
955. Actions, when deemed pending.
956. Actions to determine adverse claims, and by sureties.
957. Testimony; who may take down.
958. The clerk shall keep minute books.
959. Two of three referees, etc., may do any act.
960. Extension of time within which an act is to be done; not to exceed 30 days; exception.
961. Action against officer for official acts.
Sec.
962. Corporations may become sureties on undertakings and bonds.
963. Undertakings mentioned in this title, requisites of.
964. Justification by corporate security on bonds.
965. Clerk may accept cash deposit in lieu of bond.
966. Clerk to copy certain bonds in appropriate book.
967. Clerk to be ex officio registrar of property.
968. Government not required to give bonds when a party.
969. Surety on appeal substituted to rights of judgment creditor.

951. Lost papers, how supplied.—If an original pleading or paper be lost, the court may authorize a copy thereof to be filed and used instead of the original.

Cross-References

Admissibility of abstracts of title where records lost or destroyed, see section 1873 of this title.

Claim on lost instrument, how presented against estate, see section 1478 of this title.

Lost summons, issuance of alias, see section 164 of this title.

Lost writings, how proved, see sections 1872 and 1969 of this title.

Re-establishment and re-execution of lost instrument, see title 3, section 2734.

952. Papers without the title of the action, or with defective title, may be valid.—An affidavit, notice, or other paper, without the title of the action or proceeding in which it is made, or with a defective title, is as valid and effectual for any purpose as if duly entitled, if it intelligibly refer to such action or proceeding.

953. Successive actions on the same contract, etc.—Successive actions may be maintained upon the same contract or transaction, whenever, after the former action, a new cause of action arises therefrom.

Cross-References

Action, defined, see section 10 of this title.

Proceedings where mortgage debt falls due at different times, see section 643 of this title.

954. Severance and consolidation.—An action may be severed and actions may be consolidated, in the discretion of the court, whenever it can be done without prejudice to a substantial right.

955. Actions, when deemed pending.—An action is deemed to be pending from the time of its commencement until its final determination upon appeal, or until the time for appeal has passed, unless the judgment is sooner satisfied.

956. Actions to determine adverse claims, and by sureties.—An action may be brought by one person against another for the purpose of determining an adverse claim, which the latter makes against the former for money or property upon an alleged obligation; and also against two or more persons, for the purpose of compelling one to satisfy a debt due to the other, for which plaintiff is bound as a surety.

CROSS-REFERENCES

Quieting title to real and personal property, see sections 661 et seq., of this title.

Surety may compel principal to perform obligation, see title 3, section 2143.

957. Testimony; who may take down.—On the trial of an action in the district court, if there is no shorthand reporter of the court in attendance, the testimony may be taken down in writing by anyone agreed to by the parties.

958. The clerk shall keep minute books.—The clerk shall in person or by assistant attend all sessions of the court and keep minute books, in which he shall record, under the direction of the judge, all the proceedings of the court.

959. Two of three referees, etc., may do any act.—When there are three referees, all must meet, but two of them may do any act which might be done by all.

CROSS-REFERENCES

References and trials by referees, see sections 511 to 517 of this title.

Majority of executors may act, see section 1289 of this title.

960. Extension of time within which an act is to be done; not to exceed thirty days; exception.—When an act to be done, as provided in this title, relates to the pleadings in the action, or the undertakings to be filed, or the justifications of sureties, or the preparation of bills of exceptions, or of amendments thereto, or to the service of notices other than of appeal, the time allowed by this title, unless otherwise expressly provided, may be extended, upon good cause shown, by the judge of the district court; but such extension shall not exceed thirty days, without the consent of the adverse party.

CROSS-REFERENCE

Extension of time to plead, see section 275 of this title.

961. Action against officer for official acts.—If an action is brought against any officer or person for an act for the doing of which he had theretofore received any valid bond or covenant of indemnity, and he gives seasonable notice thereof in writing to the persons who executed such bond or covenant, and permits them to conduct the defense of such action, the judgment recovered therein is conclusive evidence against the persons so notified; and the court may, on motion of the defendant, upon notice of five days, and upon proof of such bond or covenant, and of such notice and permission, enter judgment against them for the amount so recovered and costs.

962. Corporations may become sureties on undertakings and bonds.—In all cases where an undertaking or bond, with any number of sureties, is authorized or required by any provision of this title, or of any law of the Canal Zone, any corporation with a paid-up capital of not less than $100,000, incorporated under the laws of any State of the United States for the purpose of making, guaranteeing, or becoming a surety upon bonds or undertakings required or authorized by law, or which, by the laws of the State where it was incorporated has such power, and which shall have complied with all the requirements of the law of the Canal Zone regulating the admission of these corporations to transact such business in the Canal Zone, may become and shall be accepted as security or as sole and sufficient surety upon such undertaking or bond, and such corporate surety shall be subject to all the liabilities and entitled to all the rights of natural person sureties.

963. Undertakings mentioned in this title, requisites of.—In any case where an undertaking or bond is authorized or required by any law of the Canal Zone, the officer taking the same must, except in the case of such a corporation as is mentioned in the next preceding section, require the sureties to accompany it with an affidavit that they are each residents of the Canal Zone, and are each worth the sum specified in the undertaking or bond, over and above all their just debts and liabilities, exclusive of property exempt from execution; but when the amount specified in the undertaking or bond exceeds $3,000, and there are more than two sureties thereon, they may state in their affidavits that they are severally worth amounts less than the amount specified in the undertaking or bond, if the whole amount is equivalent to that of two sufficient sureties.

Any corporation such as is mentioned in the next preceding section may become sole surety on such bond.

NEW UNDERTAKING.—Whenever an undertaking has been given and approved in any action or proceeding, and it is thereafter made to appear to the satisfaction of the court that any surety upon such undertaking has for any reason become insufficient, the court may, upon notice, order the giving of a new undertaking, with sufficient sureties, in lieu of such insufficient undertaking. In case such new undertaking so required shall not be given within the time required by such order, or in case the sureties thereon fail to justify thereon when required, all rights obtained by the filing of such original undertaking shall immediately cease.

CROSS-REFERENCE

Section applied to guardians, see section 1820 of this title.

964. Justification by corporate sureties on bonds.—Whenever the surety on a bond or undertaking authorized or required by any law of the Canal Zone is a foreign corporation, authorized to become surety on bonds or undertakings in the Canal Zone, and exception is taken to the sufficiency of such surety as required by law, such corporate surety may justify on such bond or undertaking as follows:

PROCEDURE.—Any agent, attorney in fact, or officer of such corporation shall submit to the court, judge, officer, board, or other person before whom the justification is to be made:

First. The original, or a certified copy of, the power of attorney, bylaws or other instrument showing the authority of the person or persons who executed the bond or undertaking to execute the same;

Second. A certified copy of the certificate of authority, showing that the corporation is authorized to transact business;

Third. A certificate from the executive secretary showing that the said certificate of authority has not been surrendered, revoked, canceled, annulled, or suspended, or in the event that it has been, that renewed authority to act under such certificate has been granted;

Fourth. A financial statement showing the assets and liabilities of such corporation at the end of the quarter calendar year prior to forty-five days next preceding the date of the execution of the bond or undertaking; such financial statement must be verified under oath by the president, or a vice president and attested by the secretary or an assistant secretary of such corporation.

JUSTIFICATION WHEN COMPLETE.—Upon complying with the foregoing provisions and it appearing that the bond or undertaking was duly executed, that the corporation is authorized to transact business in the Canal Zone, and that its assets exceed its liabilities in an amount equal to or in excess of the amount of the bond or undertaking, the justification of the surety shall be complete and it shall be accepted as the sole and sufficient surety on the bond or undertaking.

965. Clerk may accept cash deposit in lieu of bond.—In all proceedings in which a bond is required the clerk of the district court may accept a cash deposit in the sum of the bond. Where a cash bond is given, such moneys or any part thereof may be withdrawn only upon order of the court.

966. Clerk to copy certain bonds in appropriate book.—All bonds of every nature and description required in civil actions or proceedings, except bonds for arrest or appeal from inferior courts, shall be copied in full by the clerk in an appropriate book, and such copy, duly authenticated by him, shall have the force and effect of the original.

967. Clerk to be ex officio registrar of property.—The clerk of the district court is ex officio registrar of property of the Canal Zone, and the assistant clerks shall have and exercise like powers in the name of their principal. The clerk and his assistants shall have the duties of registrar so as to give constructive notice in all cases where provision is made for such notice by law. They shall keep proper books of record, which shall at all reasonable hours be open to the public.

968. Government not required to give bonds when a party.—In any civil action or proceeding wherein the Government is a party plaintiff, or any Government officer, in his official capacity or on behalf of the Government, is a party plaintiff or defendant, no bond, written undertaking, or security can be required of the Government, or any officer thereof; but on complying with the other provisions of this title the Government, or any Government officer acting in his official capacity, shall have the same rights, remedies, and benefits as if the bond, undertaking, or security were given and approved as required by this title.

CROSS-REFERENCE

Security not required of Government on injunction, see section 345 of this title.

969. Surety on appeal substituted to rights of judgment creditor.—Whenever any surety on an undertaking on appeal, executed to stay proceedings upon a money judgment, pays the judgment, either with or without action, after its affirmation by the appellate court, he is substituted to the rights of the judgment creditor, and is entitled to control, enforce, and satisfy such judgment, in all respects as if he had recovered the same.

CROSS-REFERENCES

Subrogation of surety paying judgment, see section 610 of this title.
Subrogation of surety to rights of creditor or cosureties, see title 3, sections 2145 and 2146.

ARTICLE 7.—DECLARATORY RELIEF

Sec.	Sec.
971. Declaratory relief.	973. Other remedies not affected.
972. Power not exercised when.	

971. Declaratory relief.—Any person interested under a deed, will, or other written instrument, or under a contract, or who desires a declaration of his rights or duties with respect to another or in respect to, in, over or upon property, may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an action in the district court for a declaration of his rights and duties in the premises, including a determination of any question of construction or validity arsing under such instrument or contract. He may ask for a declaration of rights or duties, either alone or with other relief; and the court may make a binding declaration of such rights or duties, whether or not further relief is or could be claimed at the time. The declaration may be either affirmative or negative in form and effect, and such declaration shall have the force of a final judgment. Such declaration may be had before there has been any breach of the obligation in respect to which said declaration is sought.

972. Power not exercised when.—The court may refuse to exercise the power granted by this article in any case where its declaration or determination is not necessary or proper at the time under all the circumstances.

973. Other remedies not affected.—The remedies provided by this article are cumulative, and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party to such action, and no judgment under this article shall preclude any party from obtaining additional relief based upon the same facts.

CHAPTER 17.—FEES; COSTS AND SECURITY FOR COSTS IN THE DISTRICT AND MAGISTRATES' COURTS

Art.	Sec.	Art.	Sec.
1. Fees in general	981	3. Security for costs	1021
2. Costs	1001		

ARTICLE 1.—FEES IN GENERAL

Sec.
981. Lawful to demand specific fees only.
982. Docket fees and other deposits for services of clerk or magistrate.
983. Jury fee.
984. Fees in probate and guardianship matters.
985. Clerk of district court; fees for various services; copies of papers and records.
986. Marshal, constables, and other persons serving process.
987. Same; attempts to serve process.
988. Magistrates.
989. Witness fees.
990. Referee's fees.
991. Other fees to be fixed by general rules of the district court.

Section 981. Lawful to demand specific fees only.—It shall be lawful for the clerk of the district court, referees, and commissioners appointed by the district court, the marshal, magistrates, constables, and other officers and persons hereinafter mentioned, together with their assistants and deputies, to demand, and receive, the hereinafter mentioned fees and no more; but all fees collected by officers drawing a regular salary or fixed compensation from the Government shall be paid over to the collector of the Panama Canal.

982. Docket fees and other deposits for services of clerk or magistrate.—The United States of America, the Government of the Canal Zone, and the Panama Canal, or any officer thereof who sues or is sued in his official capacity, shall not be required to pay any costs for the bringing or defending of an action.

Every other plaintiff in a civil action commenced in the district court, except as hereinafter designated, shall deposit with the clerk or assistant clerk thereof a docket fee of $8 upon the filing of the complaint. An intervenor who is allowed to intervene therein shall deposit $5 upon the filing of the petition of intervention. A plaintiff in a habeas corpus, mandamus, certiorari, or prohibition proceeding, or any other special proceeding, except a probate or guardianship proceeding, shall deposit $3 upon the filing of the complaint. Such sum or sums so deposited shall be full compensation for the clerk or assistant clerk for all services performed in any such action or proceeding, except lawful copy fees for furnishing copies of any paper or record therein.

Any other plaintiff in a civil action commenced in a magistrate's court at the time of commencing the action shall deposit a docket fee of $3. An intervenor who intervenes therein shall deposit a fee of $1 at the time of appearance. Such sum or sums so deposited shall be full compensation for all services of the magistrate in said action; except that lawful copy fees may be charged and collected for furnishing copies of any paper or record therein.

983. Jury fee.—Any party to a civil case in the district court, who demands a trial by jury, shall accompany said demand with a deposit of $10 as a jury fee; and unless such deposit is made, the case shall be tried without the intervention of a jury.

984. Fees in probate and guardianship matters.—The fees for the services of the clerk or assistant clerk of the district court in probate and guardianship matters shall be as follows: Where the value of the estate does not exceed $1,000, $3; where the value of the estate exceeds $1,000, and does not exceed $5,000, $5; where the value of the estate exceeds $5,000, $8.

Such fees shall be full compensation for the services of the clerk or assistant clerk in such proceedings, except that they shall be entitled to charge lawful fees for furnishing copies of papers and records therein. The judge of the district court shall have the power, in his discretion, in any case where the estate is small and the circumstances warrant, to waive the payment of any fee to the clerk or assistant clerk for services to be performed in such proceedings.

985. Clerk of district court; fees for various services; copies of papers and records.—For certifying the official act of a magistrate or other certificate, with seal, 25 cents.

For certified copies of any paper, record, decree, judgment, or entry, for each one hundred words or fraction thereof, 10 cents, and the further sum of 25 cents for each certification: *Provided, however*, That where copies are furnished by those desiring the same, the certification fee alone shall be collected.

For all copies of records, or bills of exception, or testimony, or of other documents for transmission to the Circuit Court of Appeals, 10 cents for each one hundred words or fraction thereof, and the further sum of 25 cents for each certification thereof: *Provided, however*, That where copies are furnished by those desiring the same, the certification fee alone shall be collected.

986. Marshal, constables, and other persons serving process.—For executing process, preliminary and final judgments, and decrees of any court, for each mile of travel in the service of process going one way, reckoned from the place of service to the place to which the process is returnable, 10 cents.

For serving an attachment against the property of the defendant, $1, together with a reasonable allowance to be made by the court for expenses, if any, necessarily incurred in caring for the property attached.

For arresting each defendant, 50 cents.

For serving summons and copy of complaint for each defendant, $1; but in special proceedings, testamentary or administrative, where several members of a family residing at the same place are defendants the fee for each defendant shall be 50 cents.

For serving subpenas, for each witness served, 25 cents besides travel fees.

For each copy of any process necessarily deposited in the office of registrar of property, 10 cents for each one hundred words, but not less than 50 cents in each case.

For taking bonds or other instruments of indemnity or security, for each, 25 cents.

For executing a writ of process to put a person in possession of real estate, $1.

For attending with prisoner on habeas corpus trial, each day, $1.

For transporting each prisoner on habeas corpus or otherwise, when required, for every mile going and returning, 10 cents.

For advertising sale, besides printer's charge, 50 cents.

For taking inventory of goods levied upon, to be charged only when the inventory is necessary, a sum fixed by the court not exceeding the actual reasonable cost of the same to be shown by vouchers.

For levying an execution on property, $1.

On all money collected by him by order of any decree, execution, attachment, or any other process, the following sums:

a. On the first $100 or less, 2 per centum;
b. On the second $100, 1½ per centum;
c. On all sums between $200 and $1,000, 1 per centum; and
d. On all sums in excess of $1,000, ½ per centum.

987. Same; attempts to serve process.—The following fees shall be charged for return on and mileage in attempts to serve process, or any order, judgment, or decree of any court in civil cases:

(a) For each return, $1;

(b) For mileage going one way in attempting to serve or execute any process, order, judgment, or decree of any court, for each mile traveled one way, 10 cents.

No such fees shall be charged against the United States or the Panama Canal or an officer thereof sued in his official capacity.

988. Magistrates.—For all services of a magistrate in a civil action the fees prescribed in section 982 of this title.

For administering oath upon any affidavit or other paper with certificate of oath, 20 cents.

For an appeal, with proceedings taking bond, making and forwarding transcript of record, 75 cents.

For each certificate not otherwise provided for, 15 cents.

For writing and certifying deposition, including the administration of oath to the witness, 10 cents for each one hundred words in the deposition and certificate.

For certified copies of any record of proceeding of which any person is entitled to receive a copy, 10 cents for each one hundred words.

A magistrate upon receiving payment of fees allowed to him by law, must render to the person or persons so paying an itemized account thereof.

989. Witness fees.—Witnesses in the district court, either in actions or special proceedings, shall be entitled to $1 per day and 10 cents for each mile going to the place of trial from their homes by the nearest route of usual travel; but mileage shall be charged but once in the action unless witness is compelled to attend more than one term of court, nor shall any allowance be made for mileage except that traveled within the Canal Zone.

Witnesses before magistrates' courts and other inferior tribunals shall be allowed 50 cents per day and the travel fees above provided and no more.

Fees to which witness may be entitled in a civil action shall be allowed, on the affidavit of the witness, stating the number of days he has attended, the amount of mileage to which he is entitled, to be taken and preserved by the clerk of the court, magistrate, or other officer before whom the witness was called to testify, and a certificate of the allowance shall be given to the witness. But on final taxation of costs the truth of the affidavit may be contested and this allowance may be set aside in whole or in part as the facts require. A witness shall not be allowed compensation for his attendance in more than one case or on more than one side of the same case at the same time, but may elect in which of several cases or on which side of the case, when he is summoned by both sides, to claim his attendance; a person who is compelled to attend court on other business shall not be paid as a witness.

990. Referee's fees.—The fees of referees are $5 to each for every day spent in the business of the reference; but the parties may agree, in writing, upon any other rate of compensation, and thereupon such rates shall be allowed.

CROSS-REFERENCES

Reference, generally, see sections 511 to 517 of this title.
Referees in probate, see sections 1487 and 1488 of this title.

991. Other fees to be fixed by general rules of the district court.—If it shall appear that services are required of clerks of court, marshals, or officers of the court, other than those for which specific fees have been provided in this article, the district judge shall by general rules provide for a scale of fees for such other services, which scale shall be proportionate to the fees in this article provided for similar services.

ARTICLE 2.—COSTS

Sec.
1001. Each party responsible for his costs; fees for service of process payable in advance.
1002. Prosecution or defense of actions in forma pauperis.
1003. Costs ordinarily allowed to prevailing party.
1004. Bill of costs and taxing of costs in district court.
1005. What costs may be recovered in district court.
1006. Magistrate to tax costs in his court.
1007. What costs may be recovered in magistrates' courts.
1008. Continuance, costs may be imposed as condition of.
1009. When action dismissed for want of jurisdiction.

1001. Each party responsible for his costs; fees for service of process payable in advance.—Each party to any civil action instituted in the district court or any magistrate's court of the Canal Zone shall be responsible for the costs incurred by him in such action, and the marshal, constable, or other officer, authorized to execute any process in such actions, shall not execute the same unless the fees allowed by law for the service of such process, shall be paid in advance by the party seeking such process, unless such party to the action is entitled to prosecute the same in forma pauperis, as provided in the section next following.

1002. Prosecution or defense of actions in forma pauperis.—Any citizen of the United States, entitled to commence any action in any court in the Canal Zone, may commence and prosecute or defend to conclusion any such action, without being required to prepay fees or costs or give security therefor, before or after bringing such action, upon filing in the said court a statement, under oath, in writing, that because of his poverty he is unable to pay the costs of said action, or to give security for same, and that he believes that he is entitled to the redress he seeks by such action, and setting forth the nature of the said cause of action.

The opposing party in the action, the clerk of the district court, or his assistant, or the magistrate, as the case may be, may contest the inability of the party to pay costs or his inability to furnish security for same; and the contest shall be heard at such time as the court or magistrate may determine.

If no contest is made upon the affidavit, or if the same is admitted by the court or magistrate after the contest, it shall be the duty of the officers of the court thereafter to issue and serve all processes and perform all duties on behalf of such party as in other cases.

1003. Costs ordinarily allowed to prevailing party.—Costs shall ordinarily be allowed to the prevailing party as a matter of course, but the court shall have power for special reasons to adjudge that either party shall pay the costs of an action, or that the same be divided as may be equitable.

1004. Bill of costs and taxing of costs in district court.—The party in whose favor judgment is rendered in the district court and who claims his costs, must within five days after the verdict or notice of the decision of the court deliver to the clerk and to the adverse party, or his attorney, a memorandum of the items of his costs in the action or proceeding, which memorandum must be verified by the oath of the party, or his attorney or agent, or by the clerk of his attorney, stating that to the best of his knowledge and belief the items are correct and that the disbursements have been necessarily incurred in the action or proceeding. A party dissatisfied with the costs so claimed, may, within five days after notice of filing of the bill of costs, file a motion to have the same taxed by the court or the judge thereof in said action.

1005. What costs may be recovered in district court.—In an action pending in the district court, the prevailing party may recover the following costs and no others:

For each witness necessarily produced by him, for each day's necessary attendance of such witness at the trial, the witness' lawful fees.

For each deposition lawfully taken by him, and produced in evidence, $2.50.

For original documents, deeds, or papers of any kind produced by him, nothing.

For official copies of such documents, deeds, or papers, the lawful fees necessarily paid for obtaining such copies.

The lawful fees paid by him for the service of any process in the action, and all lawful clerk's fees paid by him.

1006. Magistrate to tax costs in his court.—The costs in the magistrate's court shall be taxed by the magistrate without the filing and service of a memorandum of costs as provided in section 1004 of this title, and upon such information as to magistrate and constable costs and other costs and fees and mileage of witnesses as the magistrate may require.

1007. What costs may be recovered in magistrates' courts.—In an action pending before a magistrate, the plaintiff may recover the following costs, and no others:

For each witness produced by him, for each day's necessary attendance at the trial, the witness' lawful fees.

For each deposition lawfully taken by him and produced in evidence, $2.50.

For original documents, deeds, or papers of any kind produced by him, nothing.

For official copies of such documents, deeds, or papers, the lawful fees necessary paid for obtaining such copies.

The lawful fees paid by him for service of the summons and other process in the action.

The lawful docket fee paid by him.

If the judgment is for the defendant, he may recover the following costs, and no others:

For each witness produced by him, for each day's necessary attendance at the trial, the witness' lawful fees.

For each deposition lawfully taken by him and produced in evidence, $2.50.

For original documents, deeds, or papers of any kind produced by him, nothing.

For official copies of such deeds or papers, the lawful fees necessarily paid for obtaining such copies.

The lawful fees paid by him for service of any process in the action.

1008. Continuance, costs may be imposed as condition of.—When an application is made to a court or referee to postpone a trial, the payment of costs occasioned by the postponement may be imposed, in the discretion of the court or referee, as a condition of granting the same.

CROSS-REFERENCE

Postponement, generally, see sections 438 and 439 of this title.

1009. When action dismissed for want of jurisdiction.—If an action is dismissed for want of jurisdiction, courts nevertheless shall have power to render judgment for costs as justice may require.

ARTICLE 3.—SECURITY FOR COSTS

Sec.
1021. Plaintiff may be required to give.
1022. New or additional undertaking by plaintiff; form of security.
1023. Bonds, what to authorize.
1024. Security not required from Government.
1025. Security by intervenor or counter-claimant.
1026. Costs secured by attachment or other bond.

1021. Plaintiff may be required to give.—The plaintiff in any civil action or proceeding in the district court or in either of the magistrates' courts may be ruled to give security for the costs upon motion of the opposing party or of any officer of the court interested in the costs accruing in said action; and it shall be the duty of the court to require the plaintiff to give such security for costs within a reasonable time thereafter and not later than ten days after the motion is presented to the court; and if the plaintiff shall fail to comply with the order of the court within the time prescribed by the court or judge thereof, the action shall be dismissed.

1022. New or additional undertaking by plaintiff; form of security.—A new or additional undertaking may be ordered, within such time as the court or judge may prescribe, upon proof that the original undertaking is insufficient security, and failure on the part of the plaintiff to comply with the order of the court, or judge, within the time prescribed, shall cause the dismissal of the action.

The security for costs required by this article may consist of a money deposit, bond of a surety company, or cost bond with two or more good and sufficient sureties; the form of such security to be determined by the judge or magistrate of the court before whom the proceedings are pending. If personal security is furnished, the sureties must be residents of the Canal Zone, and no officer of the court or attorney practicing before the court shall be accepted as surety.

1023. Bonds, what to authorize.—All bonds given as security for costs shall authorize judgment against all of the obligors of the said bonds, jointly and severally, for such costs, to be entered in the final judgment of the action or special proceeding.

1024. Security not required from government.—No security for costs shall be required of the United States, the Panama Canal, or any of its dependencies or from the public administrator.

1025. Security by intervenor or counterclaimant.—The provisions of this article, relating to security for costs, shall apply to an intervenor; and shall also apply to a defendant who seeks a judgment against the plaintiff on a counterclaim, after the defendant shall have discontinued his action.

1026. Costs secured by attachment or other bond.—When the costs are secured by the provisions of an attachment or other bond, filed by the party required to give satisfactory security for costs, no further security shall be required.

CHAPTER 18.—WRITS OF REVIEW, MANDATE, AND PROHIBITION

Art. Sec.
1. Writ of review 1031
2. Writ of mandate 1051
3. Writ of prohibition 1071
4. Issuance, return and hearing 1081
5. Rules of practice 1091

ARTICLE 1.—WRIT OF REVIEW

Sec.
1031. Writ of review defined.
1032. When granted by district court.
1033. Application for writ, how made.
1034. The writ to be directed to the inferior tribunal, etc.
1035. Contents of the writ.
1036. Proceedings in inferior court may be stayed, or not.
1037. Service of the writ.
1038. The review under the writ, extent of.
1039. A defective return of the writ may be perfected; hearing and judgment.
1040. Copy of the judgment must be sent to the inferior tribunal.
1041. Judgment rolls.

Section 1031. Writ of review defined.—The writ of certiorari may be denominated the writ of review.

1032. When granted by district court.—A writ of review may be granted by the district court, when an inferior tribunal, board, or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the judgment of the court, any plain, speedy, and adequate remedy.

CROSS-REFERENCES

Extent of review on certiorari, see section 1038 of this title.
Writ may be made returnable at any time, see section 1081 of this title.
Rules of practice, see section 1091 of this title.

1033. Application for writ, how made.—The application must be made on the verified petition of the party beneficially interested, and the court may require a notice of the application to be given to the adverse party, or may grant an order to show cause why it should not be allowed, or may grant the writ without notice.

1034. The writ to be directed to the inferior tribunal, etc.—The writ may be directed to the inferior tribunal, board, or officer, or to any other person having the custody of the record or proceedings to be certified. When directed to a tribunal, the clerk, if there be one, must return the writ with the transcript required.

1035. Contents of the writ.—The writ of review must command the party to whom it is directed to certify fully to the district court, at a specified time and place, a transcript of the record and proceedings (describing or referring to them with convenient certainty), that the same may be reviewed by the court; and requiring the party, in the meantime, to desist from further proceedings in the matter to be reviewed.

1036. Proceedings in inferior court may be stayed, or not.—If a stay of proceedings be not intended, the words requiring the stay must be omitted from the writ; these words may be inserted or omitted, in the sound discretion of the court, but if omitted, the power of the inferior court or officer is not suspended or the proceedings stayed.

1037. Service of the writ.—The writ must be served in the same manner as a summons in a civil action, except when otherwise expressly directed by the court.

CROSS-REFERENCE

Service of summons, see sections 165 et seq., of this title.

1038. The review under the writ, extent of.—The review upon this writ cannot be extended further than to determine whether the inferior tribunal, board, or officer has regularly pursued the authority of such tribunal, board, or officer.

1039. A defective return of the writ may be perfected; hearing and judgment.—If the return of the writ be defective, the court may order a further return to be made. When a full return has been made, the court must hear the parties, or such of them as may attend for that purpose, and may thereupon give judgment, either affirming or annulling, or modifying the proceedings below.

CROSS-REFERENCE

Hearing of, see section 1081 of this title.

1040. Copy of the judgment must be sent to the inferior tribunal.—A copy of the judgment, signed by the clerk, must be transmitted to the inferior tribunal, board, or officer having the custody of the record or proceedings certified up.

1041. Judgment rolls.—A copy of the judgment, signed by the clerk, entered upon or attached to the writ and return, constitute the judgment roll.

ARTICLE 2.—WRIT OF MANDATE

Sec.
1051. Mandate defined.
1052. When issued by district court.
1053. Writ, when and upon what to issue.
1054. Writ may be either alternative or peremptory; substance.
1055. If the application be without notice, the alternative writ may issue, otherwise, the peremptory; notice and default.
1056. The adverse party may answer under oath.
1057. Applicant not precluded by answer from objection to its sufficiency.
1058. Hearings by court.
1059. Recovery of damages by applicant.
1060. Service of the writ.
1061. Penalty for disobedience to the writ.

1051. Mandate defined.—The writ of mandamus may be denominated the writ of mandate.

1052. When issued by district court.—It may be issued by the district court, to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station; or to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled, and from which he is unlawfully precluded by such inferior tribunal, corporation, board, or person.

CROSS-REFERENCES

Hearing, etc., at chambers, see section 27 of this title.
Rules of practice, see section 1091 of this title.
Returnable, when may be made, see section 1081 of this title.

1053. Writ, when and upon what to issue.—The writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course of law. It must be issued upon the verified petition of the party beneficially interested.

1054. Writ may be either alternative or peremptory; substance.—The writ may be either alternative or peremptory. The alternative writ must command the party to whom it is directed immediately after the receipt of the writ, or at some other specified time, to do the act required to be performed, or to show cause before the court at a specified time and place why he has not done so. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why he has not done as commanded must be omitted and a return-day inserted.

1055. If the application be without notice, the alternative writ may issue, otherwise, the peremptory; notice and default.—When the application to the court is made without notice to the adverse party, and the writ is allowed, the alternative must be first issued: but if the application is upon due notice and the writ is allowed, the peremptory may be issued in the first instance. With the alternative writ and also with any notice of an intention to apply for the writ, there must be served on each person against whom the writ is sought a copy of the petition. The notice of the application, when given, must be at least ten days. The writ cannot be granted by default. The case must be heard by the court, whether the adverse party appears or not.

CROSS-REFERENCES

Hearing of writ, time of, see section 1081 of this title.
Hearing by court, see section 1058 of this title.

1056. The adverse party may answer under oath.—On the return of the alternative, or the day on which the application for the writ is noticed, the party on whom the writ or notice has been served may answer the petition under oath, in the same manner as an answer to a complaint in a civil action.

CROSS-REFERENCE

Answer, see section 221 of this title.

1057. Applicant not precluded by answer from objection to its sufficiency.—On the trial, the applicant is not precluded by the answer from any valid objection to its sufficiency, and may countervail it by proof either in direct denial or by way of avoidance.

1058. Hearings by court.—If no answer be made, the case must be heard on the papers of the applicant.

CROSS-REFERENCE

Hearing on application, see section 1055 of this title.

1059. Recovery of damages by applicant.—If judgment be given for the applicant, he may recover the damages which he has sustained as may be determined by the court or referee, upon a reference to be ordered, together with costs; and for such damages and costs an execution may issue; and a peremptory mandate must also be awarded without delay.

CROSS-REFERENCE

Costs, see sections 1001 et seq., of this title.

1060. Service of the writ.—The writ must be served in the same manner as a summons in a civil action, except when otherwise expressly directed by order of the court. Service upon a majority of the members of any board or body, is service upon the board or body, whether at the time of the service the board or body was in session or not.

CROSS-REFERENCE

Service of summons see sections 165 et seq., of this title.

1061. Penalty for disobedience to the writ.—When a peremptory mandate has been issued and directed to any inferior tribunal, corporation, board, or person, if it appear to the court that any member of such tribunal, corporation, or board, or such person upon whom the writ has been personally served, has, without just excuse, refused or neglected to obey the same, the court may, upon motion, impose a fine of not more than $1,000. In case of persistence in a refusal of obedience, the court may order the party to be imprisoned until the writ is obeyed, and may make any orders necessary and proper for the complete enforcement of the writ.

CROSS-REFERENCE

Contempt, generally, see section 1163 of this title.

ARTICLE 3.—WRIT OF PROHIBITION

Sec.
1071. Writ of prohibition defined.
1072. Where and when writ issued.
1073. Writ must be either alternative or peremptory; form of.
1074. Certain provisions of the preceding article applicable.

1071. Writ of prohibition defined.—The writ of prohibition is the counterpart of the writ of mandate. It arrests the proceedings of any tribunal, corporation, board, or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board, or person.

CROSS-REFERENCE

Mandate, see sections 1051 et seq., of this title.

1072. Where and when writ issued.—It may be issued by the district court, to an inferior tribunal or to a corporation, board, or person, in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued upon the verified petition of the person beneficially interested.

CROSS-REFERENCES

When writ may be granted, see title 3, sections 2681 et seq.
Seal necessary to writ, see section 25 of this title.
Limitation of actions, effect of prohibition on, see section 107 of this title.

1073. Writ must be either alternative or peremptory; form of.—The writ must be either alternative or peremptory. The alternative writ must command the party to whom it is directed to desist or refrain from further proceedings in the action or matter specified therein, until the further order of the district court, and to show cause before such court, at a specified time and place, why such party should not be absolutely restrained from any further proceedings in such action or matter. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why he should not be absolutely restrained, and so forth, must be omitted, and a return day inserted.

CROSS-REFERENCE

Compare section 1054 of this title.

1074. Certain provisions of the preceding article applicable.—The provisions of sections 1055 to 1061 of this title apply to this proceeding.

ARTICLE 4.—ISSUANCE, RETURN, AND HEARING

1081. Writs of review, mandate, and prohibition; issuance, return, and hearing.—Writs of review, mandate, and prohibition issued by the district court, may, in the discretion of the court, be made returnable, and a hearing thereon be had at any time.

CROSS-REFERENCES

Mandate, hearing of, see sections 1055 and 1058 of this title.
Power of judge at chambers, see section 27 of this title.
Review, hearing of, see section 1039 of this title.

ARTICLE 5.—RULES OF PRACTICE

1091. Certain preceding chapters applicable.—Except as otherwise provided in this chapter, the provisions of chapters 4 to 16 of this title are applicable to and constitute the rules of practice in the proceedings mentioned in this chapter.

CROSS-REFERENCE

Rules of practice, see sections 71 et seq., of this title.

CHAPTER 19.—SUMMARY PROCEEDINGS

Art.	Sec.
1. Confession of judgment without action	1101
2. Submitting a controversy without action	1111
3. Discharge of persons imprisoned on civil process	1121
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ARTICLE 1.—CONFESSION OF JUDGMENT WITHOUT ACTION

Sec.
1101. Judgment may be confessed for debt due or contingent liability.
1102. Statement in writing, and form thereof.
1103. Filing statement and entering judgment.
1104. How, in magistrates' courts.

Section 1101. Judgment may be confessed for debt due or contingent liability.—A judgment by confession may be entered without action either for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by this article. Such judgment may be entered in any court having jurisdiction for like amounts.

CROSS-REFERENCES

Judgment by confession, in magistrate's court, see sections 791 and 1104 of this title.
Partner has no power to confess judgment, see title 3, section 1763.

1102. Statement in writing, and form thereof.—A statement in writing must be made, signed by the defendant and verified by his oath, to the following effect:

1. It must authorize the entry of judgment for a specified sum;

2. If it be for money due, or to become due, it must state concisely the facts out of which it arose, and show that the sum confessed therefor is justly due, or to become due;

3. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the liability, and show that the sum confessed therefor does not exceed the same.

1103. Filing statement and entering judgment.—The statement must be filed with the clerk of the district court if the judgment is to be entered in that court, who must indorse upon it, and enter of record, a judgment of such court for the amount confessed, with $10 costs. The statement and affidavit, with the judgment indorsed, thereupon becomes the judgment roll.

1104. How, in magistrates' courts.—In a magistrate's court, where the court has authority to enter the judgment, the statement may be filed with the magistrate, who must thereupon enter in his docket a judgment of his court for the amount confessed, with $3 costs.

CROSS-REFERENCE

Magistrate's court, see, also, section 791 of this title.

ARTICLE 2.—SUBMITTING A CONTROVERSY WITHOUT ACTION

Sec.
1111. Controversy, how submitted without action.
1112. Judgment on, as in other cases, but without costs prior to notice of trial.
1113. Judgment may be enforced or appealed from as in an action.

1111. Controversy, how submitted without action.—Parties to a question in difference, which might be the subject of a civil action, may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any court which would have jurisdiction if an action had been brought; but it must appear, by affidavit, that the controversy is real and the proceedings in good faith, to determine the rights of the parties. The court must thereupon hear and determine the case, and render judgment thereon, as if an action were depending.

1112. Judgment on, as in other cases, but without costs prior to notice of trial.—Judgment must be entered as in other cases, but without costs for any proceeding prior to the trial. The case, the submission, and a copy of the judgment constitute the judgment roll.

CROSS-REFERENCE

Judgment roll, see section 547 of this title.

1113. Judgment may be enforced or appealed from as in an action.—The judgment may be enforced in the same manner as if it had been rendered in an action, and is in the same manner subject to appeal.

CROSS-REFERENCE

Enforcement of judgment, see section 585 of this title.

ARTICLE 3.—DISCHARGE OF PERSONS IMPRISONED ON CIVIL PROCESS

Sec.
1121. Persons confined may be discharged.
1122. Notice of application for discharge from prison.
1123. Service of notice.
1124. Examination before judge.
1125. Interrogatories may be in writing.
1126. Oath to be administered.
1127. Order of discharge.
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Sec.
1129. Discharge final.
1130. Judgment remains in force.
1131. Plaintiff may order discharge of prisoner, who shall not thereafter be liable to imprisonment for the same cause of action.
1132. Plaintiff to advance funds for support of prisoner.

1121. Persons confined may be discharged.—Any person confined in jail, on an execution issued on a judgment rendered in a civil action, must be discharged therefrom upon the conditions in this article specified.

CROSS-REFERENCES

Arrest and bail in civil cases, see sections 291 et seq., of this title.
Vacation of order of arrest, see sections 315 and 316 of this title.

1122. Notice of application for discharge from prison.—Such person must cause a notice in writing to be given to the plaintiff, his agent, or attorney, that at a certain time and place he will apply to the judge of the district court for the purpose of obtaining a discharge from his imprisonment.

CROSS-REFERENCES

Notices, see sections 941 et seq., of this title.
Vacation of order of arrest, see sections 315 and 316 of this title.

1123. Service of notice.—Such notice must be served upon the plaintiff, his agent, or attorney, one day at least before the hearing of the application.

CROSS-REFERENCE

Service of notice, see section 946 of this title.

1124. Examination before judge.—At the time and place specified in the notice, such person must be taken before such judge, who must examine him under oath concerning his estate and property and effects, and the disposal thereof, and his ability to pay the judgment for which he is committed; and such judge may also hear any other legal and pertinent evidence that may be produced by the debtor or the creditor.

1125. Interrogatories may be in writing.—The plaintiff in the action may, upon such examination, propose to the prisoner any interrogatories pertinent to the inquiry, and they must, if required by him, be proposed and answered in writing, and the answer must be signed and sworn to by the prisoner.

1126. Oath to be administered.—If, upon the examination, the judge is satisfied that the prisoner is entitled to his discharge, he must administer to him the following oath, to wit:

I, ——— ———, do solemnly swear that I have not any estate, real or personal, to the amount of $50, except such as is

> by law exempted from being taken in execution; and that I have not any other estate now conveyed or concealed, or in any way disposed of, with design to secure the same to my use, or to hinder, delay, or defraud my creditors, so help me God.

1127. Order of discharge.—After administering the oath, the judge must issue an order that the prisoner be discharged from custody, and the officer, upon the service of such order, must discharge the prisoner forthwith, if he be imprisoned for no other cause.

CROSS-REFERENCES

Vacation of order of arrest, see sections 315 and 316 of this title.
Discharge on order of plaintiff, see section 1131 of this title.

1128. If not discharged, prisoner may again apply, when.—If such judge does not discharge the prisoner, he may apply for his discharge at the end of every succeeding ten days, in the same manner as above provided, and the same proceedings must thereupon be had.

1129. Discharge final.—The prisoner, after being so discharged, is forever exempted from arrest or imprisonment for the same debt, unless he be convicted of having willfully sworn falsely upon his examination before the judge, or in taking the oath before prescribed.

CROSS-REFERENCE

Discharge on order of plaintiff, see section 1131 of this title.

1130. Judgment remains in force.—The judgment against any prisoner who is discharged remains in full force against any estate which may then or at any time afterward belong to him, and the plaintiff may take out a new execution against the goods and estate of the prisoner, in like manner as if he had never been committed.

1131. Plaintiff may order discharge of prisoner, who shall not thereafter be liable to imprisonment for the same cause of action.—The plaintiff in the action may at any time order the prisoner to be discharged, and he is not thereafter liable to imprisonment for the same cause of action.

1132. Plaintiff to advance funds for support of prisoner.—Whenever a person is committed to jail on an execution issued on a judgment recovered in a civil action, the creditor, his agent, or attorney must advance to the jailer, on such commitment, sufficient money for the support of the prisoner for one week, and must make the like advance for every successive week of his imprisonment; and in case of failure to do so, the jailer must forthwith discharge such prisoner from custody, and such discharge has the same effect as if made by order of the creditor.

ARTICLE 4.—SUMMARY PROCEEDINGS FOR OBTAINING POSSESSION OF REAL PROPERTY IN CERTAIN CASES

Sec.
1141. Forcible entry defined.
1142. Forcible detainer defined.
1143. Unlawful detainer defined.
1144. Service of notice.
1145. Parties defendant.
1146. Parties generally.
1147. Complaint, what to contain.
1148. Summons, form and service of.
1149. Arrest.
1150. Judgment by default.
1151. Defendant may appear, etc.
Sec.
1152. Showing required of plaintiff in forcible entry or detainer; of defendant.
1153. Complaint must be amended in certain cases; continuance.
1154. Judgment, what it shall declare.
1155. Effect of an appeal upon the judgment.
1156. Rules of practice.
1157. Appeals, how taken, etc.
1158. Relief against forfeiture of lease.

1141. Forcible entry defined.—Every person is guilty of a forcible entry who either—

1. By breaking open doors, windows, or other parts of a house, or by any kind of violence or circumstance of terror enters upon or into any real property; or

2. Who, after entering peaceably upon real property, turns out by force, threats, or menacing conduct, the party in possession.

CROSS-REFERENCES

Exclusive original jurisdiction of magistrates' courts, see title 7, section 2.
Parties defendant, see sections 1145 and 1146 of this title.

1142. Forcible detainer defined.—Every person is guilty of a forcible detainer who either—

1. By force, or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether the same was acquired peaceably or otherwise; or

2. Who, in the nighttime, or during the absence of the occupant of any lands, unlawfully enters upon real property, and who, after demand made for the surrender thereof, for the period of five days, refuses to surrender the same to such former occupant.

The occupant of real property, within the meaning of this article, is one who, within five days preceding such unlawful entry, was in the peaceable and undisturbed possession of such lands.

1143. Unlawful detainer defined.—A tenant of real property, for a term less than life, is guilty of unlawful detainer:

1. When he continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him, without the permission of his landlord, or the successor in estate of his landlord, if any there be; but in case of a tenancy at will it must first be terminated by notice, as prescribed in Title 3, The Civil Code.

2. When he continues in possession, in person or by subtenant, without the permission of his landlord, or the successor in estate of his landlord, if any there be, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment stating the amount which is due, or possession of the property, shall have been served upon him and if there is a subtenant in actual occupation of the premises, also upon such subtenant.

Such notice may be served at any time within one year after the rent becomes due.

3. When he continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him, and if there is a subtenant in actual occupation of the premises, also, upon such subtenant. Within three days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture: *Provided*, That if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed, then no notice, as last prescribed herein, need be given to said lessee or his subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this article, to obtain possession of the premises let to a subtenant, in case of his unlawful detention of the premises underlet to him.

4. Any tenant or subtenant assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of his lease, thereby terminates the lease, and the landlord, or his successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of such demised premises under the provisions of this article.

1144. Service of notice.—The notices required by the next preceding section may be served, either—

1. By delivering a copy to the tenant personally; or

2. If he be absent from his place of residence, and from his usual place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his place of residence; or

3. If such place of residence and business cannot be ascertained, or a person of suitable age or discretion there cannot be found, then by affixing a copy in a conspicuous place on the property, and also delivering a copy to a person there residing, if such person can be found; and also sending a copy through the mail addressed to the tenant at the place where the property is situated. Service upon a subtenant may be made in the same manner.

1145. Parties defendant.—No person other than the tenant of the premises and subtenant, if there be one, in the actual occupation of the premises when the complaint is filed, need be made parties defendant in the proceeding, nor shall any proceeding abate, nor the plaintiff be nonsuited for the nonjoinder of any person who might have been made party defendant, but when it appears that any of the parties served with process, or appearing in the proceeding, are guilty of the offense charged, judgment must be rendered against him. In case a defendant has become a subtenant of the premises in controversy after the service of the notice provided for by part 2 of section 1143 of this title upon the tenant of the premises, the fact that such notice was not served on each subtenant shall constitute no defense to the action.

In case a married woman be a tenant, or a subtenant, her coverture shall constitute no defense; but in case her husband be not joined, or unless she be doing business as a sole trader, an execution issued upon a personal judgment against her can only be enforced against property on the premises at the commencement of the action.

All persons who enter the premises under the tenant, after the commencement of the suit, shall be bound by the judgment, the same as if he or they had been made party to the action.

1146. Parties generally.—Except as provided in the next preceding section, the provisions of sections 121 to 145 of this title, relating to parties to civil actions, are applicable to this proceeding.

1147. Complaint, what to contain.—The plaintiff in his complaint, which shall be verified, must set forth the facts on which he seeks to recover, and describe the premises with reasonable certainty, and may set forth therein any circumstances of fraud, force, or violence, which may have accompanied the alleged forcible entry or forcible or unlawful detainer, and claim damages therefor. In case the unlawful detainer charged is after default in the payment of rent, the complaint must state the amount of such rent. Upon filing the complaint, a summons must be issued thereon.

CROSS-REFERENCE

Damages, see section 1154 of this title.

1148. Summons, form and service of.—The summons must require the defendant to appear and answer within three days after the service of the summons upon him, and must notify him that if he fails to so appear and answer, the plaintiff will apply to the court for the relief demanded in the complaint. In all other respects the summons, or any alias summons in such proceedings, must be issued and served and returned in the same manner as summons in a civil action.

1149. Arrest.—If the complaint presented establishes, to the satisfaction of the magistrate, fraud, force, or violence, in the entry or detainer, and that the possession held is unlawful, he may make an order for the arrest of the defendant.

CROSS-REFERENCE

Arrest, generally, see sections 731 et seq., of this title.

1150. Judgment by default.—If, at the time appointed, the defendant do not appear and defend, the court must enter his default and render judgment in favor of the plaintiff as prayed for in the complaint.

CROSS-REFERENCE

Judgment by default, see sections 761 and 762 of this title.

1151. Defendant may appear, etc.—On or before the day fixed for his appearance, the defendant may appear and answer or demur.

CROSS-REFERENCES

Appearance, generally, see section 945 of this title.
Demurrer, generally, see sections 714 et seq., of this title.

1152. Showing required of plaintiff in forcible entry or detainer; of defendant.—On the trial of any proceeding for any forcible entry or forcible detainer, the plaintiff shall only be required to show, in addition to the forcible entry or forcible detainer complained of, that he was peaceably in the actual possession at the time of the forcible entry, or was entitled to the possession at the time of the forcible detainer. The defendant may show in his defense that he or his ancestors, or those whose interest in such premises he claims, have been in the quiet possession thereof for the space of one whole year together next before the commencement of the proceedings, and that his interest therein is not then ended or determined; and such showing is a bar to the proceedings.

CROSS-REFERENCE

Practice, see section 1156 of this title.

1153. Complaint must be amended in certain cases; continuance.—When, upon the trial of any proceeding under this article, it appears from the evidence that the defendant has been guilty of either a forcible entry or a forcible or unlawful detainer, and other than the offense charged in the complaint, the magistrate must order that such complaint be forthwith amended to conform to such proofs; such amendment must be made without any imposition of terms. No continuance shall be permitted upon account of such amendment unless the defendant, by affidavit filed, shows to the satisfaction of the court good cause therefor.

CROSS-REFERENCES

Amendment of pleadings, generally, see section 720 of this title.
Continuance, generally, see section 772 of this title.

1154. Judgment, what it shall declare.—If upon the trial the finding of the court be in favor of the plaintiff and against the defendant, judgment shall be entered for the restitution of the premises; and if the proceedings be for an unlawful detainer after neglect or failure to perform the conditions or covenants of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of such lease or agreement.

ASSESSMENT OF DAMAGES.—The court shall also assess the damages occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and find the amount of any rent due, if the alleged unlawful detainer be after default in the payment of rent. Judgment against the defendant guilty of the forcible entry, or forcible or unlawful detainer, may be entered in the discretion of the court either for the amount of the damages and rent found due, or for three times the amount so found.

EXECUTION.—When the proceeding is for an unlawful detainer after default in the payment of rent, and the lease or agreement under which the rent is payable has not by its terms expired, execution upon the judgment shall not be issued until the expiration of five days after the entry of the judgment, within which time the tenant, or any subtenant, or any mortgagee of the term, or any other party interested in its continuance, may pay into court, for the landlord, the amount found due as rent, with interest thereon, and the amount of the damages found by the court for the unlawful detainer, and the costs of the proceedings, and thereupon the judgment shall be satisfied and the tenant be restored to his estate.

SATISFACTION OF JUDGMENT.—But if payment as here provided be not made within five days, the judgment may be enforced for its full amount, and for the possession of the premises. In all other cases the judgment may be enforced immediately.

CROSS-REFERENCES

Stay of execution, see section 812 of this title.
Relief from forfeiture, see section 1158 of this title.

1155. Effect of an appeal upon the judgment.—An appeal taken by the defendant shall not stay proceedings upon the judgment unless the magistrate before whom the same was rendered so directs.

CROSS-REFERENCE

Appeals, see sections 881 et seq., of this title.

1156. Rules of practice.—Except as otherwise provided in this article the provisions of chapters 4 to 16 of this title are applicable to, and constitute the rules of practice in the proceedings mentioned in this article.

CROSS-REFERENCE

Rules of practice, see sections 71 et seq., of this title.

1157. Appeals, how taken, etc.—The provisions of sections 881 to 891 of this title, relative to appeals, except in so far as they are inconsistent with the provisions of this article, apply to the proceedings mentioned in this article.

CROSS-REFERENCE

Appeals, see sections 881 et seq., of this title.

1158. Relief against forfeiture of lease.—The court may relieve a tenant against a forfeiture of a lease, and restore him to his former estate, in case of hardship, where application for such relief is made within thirty days after the forfeiture is declared by the judgment of the court, as provided in section 1154 of this title. The application may be made by a tenant or subtenant, or a mortgagee of the term, or any person interested in the continuance of the term. It must be made upon petition, setting forth the facts upon which the relief is sought, and be verified by the applicant. Notice of the application, with a copy of the petition, must be served on the plaintiff in the judgment, who may appear and contest the application. In no case shall the application be granted except on condition that full payment of rent due, or full performance of conditions or covenants stipulated, so far as the same is practicable, be made.

CROSS-REFERENCES

Strict construction of conditions involving forfeiture, see title 3, section 699.

Letter may forfeit hiring when, see title 3, sections 1276 and 1277.

Specific or preventive relief not granted to enforce forfeiture, see title 3, section 2684.

Right to relief from forfeiture on making full compensation, see title 3, section 2612.

CHAPTER 20.—CONTEMPTS

Sec.
1161. What contempt of court may be punished summarily.
1162. Order adjudging guilt under preceding section.
1163. What other acts are contempts of court.
1164. Affidavit of facts constituting contempt.
1165. A warrant of attachment may issue, or a notice to show cause.
1166. Bail may be given by a person arrested under such warrant.
1167. Marshal or constable must, upon executing the warrant, arrest and detain the person until discharged.
1168. Bail bond, form and conditions of.
1169. Officer must return warrant and undertaking, if any.
1170. Hearing.
1171. Judgment and punishment, if guilty.
1172. If the contempt is the omission to perform any act, the person may be imprisoned until performance.
1173. If a party fail to appear, proceedings.
1174. Illness sufficient cause for nonappearance of party arrested; confinement under arrests for contempt.

Section 1161. What contempt of court may be punished summarily.—A person guilty of misbehavior in the presence of or so near a court, judge, or magistrate as to obstruct the administration of justice, including the refusal of a person present in court to be sworn as a witness or to answer as a witness when lawfully required, shall be guilty of contempt, which the court may punish summarily, by imprisonment in jail for not more than ten days, or by a fine of not more than $100, or by both.

CROSS-REFERENCES

Powers of courts, see sections 23, 31, and 32 of this title.

Misbehavior of attorney, see section 52 of this title.

Disobedience of witness, see sections 2046 to 2049 of this title.

1162. Order adjudging guilt under preceding section.—When a contempt under the next preceding section is committed, an order must be made, reciting the facts as occurring in such presence or proximity, adjudging that the person proceeded against is thereby guilty of a contempt, and that he be punished as therein prescribed.

CROSS-REFERENCES

Disobedience of citation in matters of probate, see sections 1415, 1453, and 1454 of this title.

Disobedience of witness, see sections 2046 to 2049 of this title.

Disobedience of mandate, see section 1061 of this title.

Refusal to obey order for inspection of writings, see section 921 of this title.

Officer taking proof of instrument may punish for contempt, see title 3, section 507.

Misbehavior of attorney, see section 52 of this title.

1163. What other acts are contempts of court.—A person guilty of any of the following acts may be punished as for contempt:

1. Disobedience of or resistance to a lawful writ, process, order, judgment, or command of the district or a magistrate's court, or injunction granted by the district court or judge;
2. Misbehavior of an officer of a court in the performance of his official duties, or in his official transactions;
3. A failure to obey a subpena duly served;
4. The rescue, or attempted rescue of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

1164. Affidavit of facts constituting contempt.—When a contempt under the next preceding section is committed, an affidavit shall be presented to the court, judge, or magistrate of the facts constituting the contempt.

1165. A warrant of attachment may issue, or a notice to show cause.—When a contempt under section 1163 of this title is committed, a warrant of attachment may be issued to bring the person charged to answer, or, without a previous arrest, a warrant of commitment may, upon notice, or upon an order to show cause, be granted; and no warrant of commitment can be issued without such previous attachment to answer, or such notice or order to show cause.

CROSS-REFERENCE

Service of papers in proceedings for contempt, see sections 946 and 947 of this title.

1166. Bail may be given by a person arrested under such warrant.—Whenever a warrant of attachment is issued, pursuant to this chapter, the court, judge, or magistrate must direct, by an indorsement on such warrant, that the person charged may be let to bail for his appearance, in an amount to be specified in such indorsement.

CROSS-REFERENCE

Form and condition of bail bond, see section 1168 of this title.

1167. Marshal or constable must, upon executing the warrant, arrest and detain the person until discharged.—Upon executing the warrant of attachment, the marshal or constable must keep the person in custody, bring him before the court, judge, or magistrate and detain him until an order be made in the premises, unless the person arrested entitle himself to be discharged, as provided in the section next following.

1168. Bail bond, form and conditions of.—When a direction to let the person arrested to bail is contained in the warrant of attachment, or indorsed thereon, he must be discharged from the arrest, upon executing and delivering to the officer, at any time before the return day of the warrant, a written undertaking, with two sufficient sureties, to the effect that the person arrested will appear on the return of the warrant and abide the order of the court, judge, or magistrate thereupon; or they will pay as may be directed, the sum specified in the warrant.

1169. Officer must return warrant and undertaking, if any.—The officer must return the warrant of arrest and undertaking, if any, received by him from the person arrested, by the return day specified therein.

1170. Hearing.—When the person arrested has been brought up or appeared, the court, judge, or magistrate must proceed to investigate the charge, and must hear any answer which the person arrested may make to the same, and may examine witnesses for or against him, for which an adjournment may be had from time to time, if necessary.

1171. Judgment and punishment, if guilty.—The court shall determine whether the accused is guilty of contempt, and, if he is adjudged guilty, he may be fined not more than $100, or imprisoned for not more than ten days, or both. If the contempt consists in the violation of an injunction, the person guilty of such contempt may also be ordered to make complete restitution to the party injured by such violation.

1172. If the contempt is the omission to perform any act, the person may be imprisoned until performance.—When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he has performed it, and in that case the act must be specified in the warrant of commitment.

CROSS-REFERENCE

Executor or administrator, contempt, see section 1415 of this title.

1173. If a party fail to appear, proceedings.—When the warrant of arrest has been returned served, if the person arrested do not appear on the return day, the court, judge, or magistrate may issue another warrant of arrest, or may order the undertaking to be prosecuted, or both. If the undertaking be prosecuted, the measure of damages in the action is the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the warrant was issued, and the costs of the proceeding.

1174. Illness sufficient cause for nonappearance of party arrested; confinement under arrests for contempt.—Whenever, by the provisions of this chapter, an officer is required to keep a person arrested on a warrant of attachment in custody, and to bring him before a court, judge, or magistrate, the inability, from illness or otherwise, of the person to attend, is a sufficient excuse for not bringing him up; and the officer must not confine a person arrested upon the warrant in jail, or otherwise restrain him of personal liberty, except so far as may be necessary to secure his personal attendance.

CHAPTER 21.—ESCHEAT OF PROPERTY

Sec.
1181. When property escheats.
1182. Action to determine right of United States to escheated property.
1183. Appearance, pleadings, and judgment.
Sec.
1184. Claim to escheated property.
1185. Proceeds of property to be covered into Treasury.

Section 1181. When property escheats.—If an intestate decedent leaves no husband, wife, or kindred, and there are no heirs to take his estate or any portion thereof, under subdivision 8 of section 633 of title 3, or if any person dies leaving any property in his estate not disposed of by will, and there are no persons entitled to succeed thereto under the laws of the Canal Zone, the same shall escheat to the United States.

CROSS-REFERENCES

When property escheats, see also title 3, section 633.

Unclaimed property taken by succession by alien escheats, see title 3, sections 263, 651.

Money deposited with collector to pay claim against decedent, see section 1494 of this title.

Failure of heirs to appear, as basis for judgment on behalf of United States, see section 1182 of this title.

1182. Action to determine right of United States to escheated property.—Whenever the district attorney is informed that any estate has escheated or is about to escheat to the United States or that the property involved in any action or special proceeding has escheated or is about to escheat to the United States, he may commence an action on behalf of the United States to determine its rights to said property or may intervene on its behalf in any action or special proceeding affecting any such estate and contest the rights of any claimant or claimants thereto. Such action shall be commenced by filing a petition.

DESCRIPTION OF PROPERTY.—There shall be set forth in such petition a description of the property, the name of the person last possessed thereof, the name of the person, if any, claiming such property, or any portion thereof, and the facts and circumstances by virtue of which it is claimed the property has escheated.

ORDER REQUIRING INTERESTED PARTIES TO APPEAR.—Upon the filing of such petition, the court must make an order requiring all persons interested in the estate to appear and show cause, if any there be, within sixty days from the date of the order, why such estate should not vest in the United States. Notice of such order must be given by posting in three public places in the Canal Zone for four successive weeks prior to the date set for the hearing. Upon the giving of such notice the court shall have full and complete jurisdiction over the estate, the property, and the person of everyone having or claiming any interest in the said property, and shall have full and complete jurisdiction to hear and determine the issues therein, and render the appropriate judgment thereon.

CUSTODY OF SUCH PROPERTY.—The property in such estates shall, in the discretion of the court, be sold in the manner provided in chapters 23 to 36 of this title for the sale of property of a decedent's estate, and the proceeds deposited with the collector of the Panama Canal. to be held for a period of five years from the date of the judgment under section 1183 of this title.

JOINDER OF PARTIES AND ACTIONS.—In any proceeding brought by the district attorney under this chapter any two or more causes of action may be joined in the same proceeding and in the same petition without being separately stated, and it shall be sufficient to allege in the petition that the decedent left no heirs to take the estate and the failure of the heirs to appear and set up their claims in any such proceeding, or in any proceeding for the administration of such estate, shall be sufficient proof upon which to base the judgment in any such proceeding or such decree of distribution.

1183. Appearance, pleadings, and judgment.—All persons named in the petition may appear and answer, and traverse or deny the facts stated therein at any time before the time for answering expires, and any other person claiming an interest in such estate may appear and be made a defendant, by motion for that purpose in open court within the time allowed for answering, and if no such person appears and answers within the time, then judgment must be rendered that the United States is the owner of the property in such petition claimed;

But if any person appears and denies the title set up by the United States, or traverses any material fact set forth in the petition, the issue of fact must be tried as issues of fact are tried in civil actions.

If, after the issues are tried, it appears from the facts found or admitted that the United States has good title to the property in the petition mentioned, or any part thereof, judgment must be rendered that the United States is the owner and entitled to the possession thereof.

CROSS-REFERENCES

Appearance, see section 945 of this title.
Answer, see section 221 of this title.
Judgment, see sections 421 and 541 of this title.
Trial, see sections 441 et seq., of this title.
Issues of fact, see section 433 of this title.

1184. Claim to escheated property.—Within five years after judgment in any proceeding had under this chapter, a person not a party or privy to such proceeding may file a petition in the district court, showing his claim or right to the property, or the proceeds thereof.

Said petition shall be verified, and, among other things, must state the full name and the place and date of birth of the decedent; whether or not such decedent was ever married, and if so, where, when, and to whom; how, when, and where such marriage, if any, was dissolved; whether or not said decedent was ever remarried, and, if so, where, when, and to whom; the full names and the dates of birth of lineal descendants and ascendants and of all other known heirs, and the names and places of residence of all who are then surviving; and such other information as may be required by the court. If for any reason the petitioner is unable to set forth any of the matters or things hereinabove required, he shall clearly state such reason in his petition.

A copy of such petition must be served on the district attorney at least twenty days before the hearing of the petition, who must answer the same;

And the court must thereupon try the issue as issues are tried in civil actions, and if it is determined that such person is entitled to the property, or the proceeds thereof, it must order the property, if it has not been sold, to be delivered to him, or if it has been sold and the proceeds paid to the collector of the Panama Canal, then it must order the collector to pay the same.

All persons who fail to appear and file their petitions within the time limited are forever barred.

CROSS-REFERENCE

Disabilities affecting statute of limitations, see section 103 of this title.

1185. Proceeds of property to be covered into Treasury.—If no claim to the property or the proceeds thereof is filed within the time specified in the next preceding section, the court may, on application of the district attorney, direct that the proceeds be covered into the Treasury of the United States as miscellaneous receipts.

CHAPTER 22.—CHANGE OF NAMES

Sec.
1191. Jurisdiction.
1192. Application to change name, made to district court.
1193. Order to show cause; publication of order; proof of publication.

Section 1191. Jurisdiction.—Applications for change of names must be heard and determined by the district court.

CROSS-REFERENCE

Change of name of partnership as notice of dissolution, see title 3, section 1796.

1192. Application to change name, made to district court.—All applications for change of names must be made to the division of the district court where the person whose name is proposed to be changed resides, by petition, signed by such person; and if such person is under twenty-one years of age, if a male, and under eighteen years of age, if a female, by one of the parents, if living, or if both be dead, then by the guardian; and if there be no guardian, then by some near relative or friend.

The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and the reason for such change of name, and must, if the father of such person be not living, name, so far as known to the petitioner, the near relatives of such person, and their places of residence.

1193. Order to show cause; publication of order; proof of publication.—Upon the filing of the said petition the court shall thereupon make an order reciting the filing of the application, the name of the person by whom it is filed and the name proposed, and directing all persons interested in said matter to appear before the court, at a time and place specified, not less than four or more than eight weeks from the time of making such order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the division in which the court is held, for a period of four successive weeks. Proof must be made to the satisfaction of the court, of such posting, at the time of the hearing of the application.

CHAPTER 23.—JURISDICTION OF DISTRICT COURT OVER ESTATES OF DECEDENTS

Sec.
1201. Jurisdiction of district court over the estate.
1202. When jurisdiction of district court over estate decided by first application.

Section 1201. Jurisdiction of district court over the estate.—Wills must be proved, and letters testamentary or of administration granted—

1. In the division of the district court of which the decedent was a resident at the time of his death, in whatever place he may have died;

2. In the division in which the decedent may have died, leaving estate therein, he not being a resident of the Canal Zone;

3. In the division in which any part of the estate may be, the decedent having died out of the Canal Zone, and not having been a resident thereof at the time of his death;

4. In the division in which any part of the estate may be, the decedent not being a resident of the Canal Zone, and not leaving estate in the division in which he died;

5. In all other cases, in the division where application for letters is first made:

Provided, *however*, That all matters of probate handled by the public administrator may be conducted in the Balboa division, regardless of the residence of the decedent or the location of the estate.

1202. When jurisdiction of district court over estate decided by first application.—When the estate of the decedent is in more than one division, he having died out of the Canal Zone, and not having been a resident thereof at the time of his death, or being such nonresident, and dying within the Canal Zone, and not leaving estate in the division where he died, the division of the district court in which application is first made, for letters testamentary or of administration, has exclusive jurisdiction of the settlement of the estate.

CHAPTER 24.—PROBATE OF WILLS

Art.	Sec.
1. Petition, notice and proof	1211
2. Contesting probate of will	1231
3. Probate of foreign wills	1241
4. Contesting will after probate	1251
5. Probate of lost or destroyed will	1261
6. Probate of nuncupative will	1271

ARTICLE 1.—PETITION, NOTICE AND PROOF

Sec.
1211. Custodian of will to deliver same to whom; penalty.
1212. Who may petition for probate of will.
1213. What petition for probate of will must show.
1214. When executor forfeits right to letters.
1215. Possession of will by third person; production of.
1216. Notice of petition for probate of wills, how given.
1217. Notification of time for probate of will.
1218. Order to enforce production of wills or attendance of witnesses.
1219. Hearing proof of will after proof of service of notice.
1220. Who may appear and contest the will.
1221. Probate of wills not contested.
1222. Clerk's record.
1223. Olographic wills.
1224. Probate of will detained outside Canal Zone.

Section 1211. Custodian of will to deliver same to whom; penalty.—Every custodian of a will, within thirty days after receipt of information that the maker thereof is dead, must deliver the same to the division of the district court having jurisdiction of the estate, or to the executor named therein. A failure to comply with the provisions of this section makes the person failing responsible for all damages sustained by anyone injured thereby.

CROSS-REFERENCE

Commitment for failure to produce will, see section 1215 of this title.

1212. Who may petition for probate of will.—Any executor, devisee, or legatee named in any will, or any other person interested in the estate, may, at any time after the death of the testator, petition the division of the court having jurisdiction to have the will proved, whether the same be in writing, in his possession or not, or is lost or destroyed, or beyond the jurisdiction of the Canal Zone, or a nuncupative will.

CROSS-REFERENCES

Probate of foreign wills, see sections 1241 et seq., of this title.
Probate of lost or destroyed will, see sections 1261 et seq., of this title.
Probate of foreign wills, see sections 1241 et seq., of this title.

1213. What petition for probate of will must show.—A petition for the probate of a will must show:

1. The jurisdictional facts;
2. Whether the person named as executor consents to act, or renounces his right to letters testamentary;
3. The names, ages, and residences of the heirs, legatees, and devisees of the decedent, so far as known to the petitioner;
4. The probable value and character of the property of the estate;
5. The name of the person for whom letters testamentary are prayed.

No defect of form or in the statement of jurisdictional facts actually existing, shall make void the probate of a will.

CROSS-REFERENCES

Probate of foreign wills, see sections 1241 et seq., of this title.
Probate of lost or destroyed will, see sections 1261 et seq., of this title.
Probate of nuncupative will, see sections 1271 et seq., of this title.

1214. When executor forfeits right to letters.—If the person named in a will as executor, for thirty days after he has knowledge of the death of the testator, and that he is named as executor, fails to petition the proper division of the court for the probate of the will, and that letters testamentary be issued to him, he may be held to have renounced his right to letters, and the court may appoint any other competent person administrator, unless good cause for delay is shown.

CROSS-REFERENCE

Failure to apply for letters or qualify, see section 1284 of this title.

1215. Possession of will by third person; production of.—If it is alleged in any petition that any will is in the possession of a third person, and the court is satisfied that the allegation is correct, an order must be issued and served upon the person having possession of the will, requiring him to produce it at a time named in the order. If he has possession of the will and neglects or refuses to produce it in obedience to the order, he may by warrant from the court be committed to jail, and be kept in close confinement until he produces it.

CROSS-REFERENCES

Probate orders and citations, see sections 1681 to 1687 of this title.
Imprisonment until order obeyed, see section 1172 of this title.
Duty to produce will, see section 1211 of this title.

1216. Notice of petition for probate of wills, how given.—When the petition is filed, and the will produced, the clerk of the court must set the petition for hearing by the court upon some day not less than ten nor more than thirty days from the production of the will. Notice of the hearing shall be given by such clerk by publishing the same in a newspaper of general circulation in the Canal Zone. If the notice is published in a weekly newspaper, it must appear therein on at least three different days of publication; and if in a newspaper published oftener than once a week, it shall be so published that there must be at least ten days from the first to the last day of publication, both the first and the last day being included.

CROSS-REFERENCES

Publication of notice, see section 1682 of this title.
Proof of notice, see section 1219 of this title.
Affidavit of publication, see sections 2072 and 2073 of this title.

1217. Notification of time for probate of will.—Copies of the notice of the time appointed for the probate of the will must be addressed to the heirs of the testator and the devisees and legatees named in the will at their places of residence, if known to the petitioner, and deposited in the post office, at least ten days before the hearing. If their places of residence be not known, the copies of notice may be addressed to them, and deposited in the post office at the place where the proceedings are pending. A copy of the same notice must in like manner be mailed to the person named as executor, if he be not the petitioner; also, to any person named as coexecutor not petitioning, if their places of residence be known. Proof of mailing the copies of the notice must be made at the hearing. Personal service of copies of the notice at least ten days before the day of hearing is equivalent to mailing.

1218. Order to enforce production of wills or attendance of witnesses.—The judge of the district court may at any time make and issue all necessary orders and writs to enforce the production of wills and the attendance of witnesses.

CROSS-REFERENCES

Probate powers at chambers, see sections 27 and 30 of this title; and title 7, section 31.
Probate orders and processes, see sections 1681 et seq., of this title.

1219. Hearing proof of will after proof of service of notice.—At the time appointed for the hearing, or the time to which the hearing may have been postponed, the court, unless the parties appear, must require proof that the notice has been given, which being made, the court must hear testimony in proof of the will.

CROSS-REFERENCE

Testimony in proof of will, see sections 1221, 1223, 1234, and 1235 of this title.

1220. Who may appear and contest the will.—Any person interested may appear and contest the will. Devisees, legatees, or heirs of an estate may contest the will through their guardians, or attorneys appointed by themselves or by the court for that purpose; but a contest made by an attorney appointed by the court does not bar a contest after probate by the party so represented, if commenced within the time provided in section 1251 of this title; nor does the nonappointment of an attorney by the court of itself invalidate the probate of a will.

CROSS-REFERENCES

Contest, see sections 1231 et seq., of this title.
Guardians, see sections 127, 128, and 1721 et seq., of this title.

1221. Probate of wills not contested.—If no person appears to contest the probate of a will, the court may admit it to probate on the testimony of one of the subscribing witnesses only, if he testifies that the will was executed in all particulars as required by law, and that the testator was of sound mind at the time of its execution. If it appears at the time fixed for the hearing that none of the subscribing witnesses reside in the Canal Zone, but that the deposition of one of them can be taken elsewhere, the court may direct it to be taken, and may authorize a photographic copy of the will to be made and to be presented to such witness on his examination, who may be asked the same questions with respect to it and the handwriting of himself, the testator, and the other witness, as would be pertinent and competent if the original will were present. If neither the attendance in court nor the deposition of any of the subscribing witnesses can be procured, the court may admit the will to probate upon the testimony of any other witness as provided in section 1234 of this title.

CROSS-REFERENCES

Writings, how proved, see section 1972 of this title.
Contest, see sections 1231 et seq., of this title.

1222. Clerk's record.—When the court admits a will to probate it must be recorded in the minutes by the clerk, with the notation: "Admitted to probate (giving date)."

1223. Olographic wills.—An olographic will may be proved in the same manner that other private writings are proved.

CROSS-REFERENCE

Private writings, how proved, see section 1972 of this title.

1224. Probate of will detained outside Canal Zone.—If it is alleged in any petition that any will of any person who at the time of his death was a resident of the Canal Zone is detained beyond the jurisdiction of the Zone, in a court of any State or foreign country, and that such will cannot be produced for probate in the Zone, and the court is satisfied that the allegations are true, a copy of the will duly authenticated may be proved, allowed, and admitted to probate in the Zone in lieu of the original will, and have the same force and effect as the original will. The same proof shall be required in order to admit the will to probate in the Zone as would be required under the provisions of this chapter if the original will were produced.

The court may authorize a photographic copy of the will to be presented to the subscribing witness upon his examination in court, or by deposition as provided in section 1221 of this title, and such witness may be asked the same questions with respect to it, and the handwriting of himself, the testator, and the other witness, as would be pertinent and competent if the original will were present.

ARTICLE 2.—CONTESTING PROBATE OF WILL

Sec.
1231. Contestants to file grounds of contest, and petitioner to reply.
1232. How jury obtained and trial had.
1233. Verdict of the jury; judgment.
1234. Witnesses, who and how many to be examined; proof of handwriting admitted, when.
Sec.
1235. Testimony reduced to writing for future evidence.
1236. If proved, certificate to be attached.
1237. Will and proof to be filed and recorded.

1231. Contestant to file grounds of contest, and petitioner to reply.—If anyone appears to contest the will, he must file written grounds of opposition to the probate thereof, and serve a copy on the petitioner and other residents of the Canal Zone interested in the estate, any one or more of whom may demur thereto, upon any of the grounds of demurrer provided for in sections 211 to 215 of this title. If the demurrer is sustained, the court must allow the contestant a reasonable time, not exceeding ten days, within which to amend his written opposition. If the demurrer is overruled, the petitioner and others interested may jointly or separately answer the contestant's grounds, traversing, or otherwise obviating or avoiding the objections. Any issues of fact thus raised, involving:

1. The competency of the decedent to make a last will and testament;

2. The freedom of the decedent at the time of the execution of the will from duress, menace, fraud, or undue influence;

3. The due execution and attestation of the will by the decedent or subscribing witnesses; or

4. Any other questions substantially affecting the validity of the will;

Must, on request of either party in writing (filed at least ten days prior to the day set for the hearing), be tried by a jury. If no jury is demanded, the court must try and determine the issues joined. On the trial, the contestant is plaintiff and the petitioner is defendant.

CROSS-REFERENCES

Contestant, see section 1220 of this title.
Contest after probate, see sections 1220 and 1251 et seq., of this title.
Grounds of demurrer, see sections 211 to 215 of this title.
Service, etc., see sections 941 et seq., of this title.

1232. How jury obtained and trial had.—When a jury is demanded, the district court must impanel a jury to try the case, in the manner provided for impaneling trial juries in said court, and the trial must be conducted in accordance with the provisions of sections 441 to 486 of this title. A trial by the court must be conducted as provided in sections 501 to 504 of this title.

CROSS-REFERENCE

Impaneling trial juries, see sections 451 to 454 of this title.

1233. Verdict of the jury; judgment.—The jury, after hearing the case, must return a special verdict upon the issues submitted to them by the court, upon which the judgment of the court must be rendered, either admitting the will to probate or rejecting it. In either case, the proofs of the subscribing witnesses must be reduced to writing. If the will is admitted to probate, the judgment, will, and proofs must be recorded.

CROSS-REFERENCES

Verdict, generally, see sections 481 to 485 of this title.
Proofs reduced to writing, see section 1235 of this title.

1234. Witnesses, who and how many to be examined; proof of handwriting admitted, when.—If the will is contested, all the subscribing witnesses who are present in the Canal Zone, and who are of sound mind, must be produced and examined; and the death, absence, or insanity of any of them must be satisfactorily shown to the court. If none of the subscribing witnesses reside in the Canal Zone at the time appointed for proving the will, the court may admit the testimony of other witnesses to prove the sanity of the testator and the execution of the will; and, as evidence of the execution, it may admit proof of the handwriting of the testator and of the subscribing witnesses, or any of them.

CROSS-REFERENCES

Writings, proof of execution, see section 1972 of this title.
Witnesses, generally, see sections 1901 to 1906 of this title.
Procuring attendance of witnesses, see sections 2041 et seq., of this title.

1235. Testimony reduced to writing for future evidence.—The testimony of each witness, reduced to writing and signed by him, shall be good evidence in any subsequent contests concerning the validity of the will, or the sufficiency of the proof thereof, if the witness be dead, or has permanently removed from the Canal Zone.

1236. If proved, certificate to be attached.—If the court is satisfied, upon the proof taken, or from the facts found by the jury, that the will was duly executed, and that the testator at the time of its execution was of sound and disposing mind, and not acting under duress, menace, fraud, or undue influence, a certificate of the proof and the facts found, signed by the judge and attested by the seal of the court, must be attached to the will.

CROSS-REFERENCE

Seal required, see section 25 of this title.

1237. Will and proof to be filed and recorded.—The will, and a certificate of the proof thereof, must be filed and recorded by the clerk, and the same, when so filed and recorded, shall constitute part of the record in the cause or proceeding. All testimony shall be filed by the clerk.

ARTICLE 3.—PROBATE OF FOREIGN WILLS

Sec.
1241. Wills proved in States or foreign countries.
1242. Probate of foreign will.
1243. Hearing proofs of probate of foreign will.

1241. Wills proved in States or foreign countries.—All wills duly proved and allowed in any State of the United States, or in any foreign country or State, may be allowed and recorded in the division of the district court in which the testator shall have left any estate, or shall have been a resident, at the time of his death.

1242. Probate of foreign will.—When a copy of the will, and the order or decree admitting same to probate, duly authenticated, shall be produced by the executor, or by any other person interested in the will, with a petition for letters, the same must be filed, and the clerk of the court must appoint a time for the hearing; notice whereof must be given as hereinbefore provided for an original petition for the probate of a will.

CROSS-REFERENCES

Foreign executor, no extraterritorial authority, see section 1939 of this title.
Notice as for an original petition, see sections 1216 et seq., of this title.
Petition, notice, etc., see sections 1212 et seq., of this title.

1243. Hearing proofs of probate of foreign will.—If, on the hearing, it appears upon the face of the record that the will has been proved, allowed, and admitted to probate in any State of the United States, or in any foreign country, and that it was executed according to the law of the place in which the same was made, or in which the testator was at the time domiciled, or in conformity with the laws of the Canal Zone, it must be admitted to probate, and have the same force and effect as a will first admitted to probate in the Zone, and letters testamentary or of administration issued thereon.

CROSS-REFERENCE

Letters testamentary or of administration, see sections 1282 et seq., of this title.

ARTICLE 4.—CONTESTING WILL AFTER PROBATE

Sec.
1251. The probate may be contested within one year.
1252. Citation to be issued to parties interested.
1253. The hearing had on proof of service.
1254. Petitions to revoke probate of will tried by jury or court; judgment, what.
1255. On revocation of probate, powers of executor, etc., cease, but not liable for acts in good faith.
1256. Costs and expenses, by whom paid.
1257. Probate, when conclusive; one year after removal of disability given to infants and others.

1251. The probate may be contested within one year.—When a will has been admitted to probate, any person interested may, at any time within one year after such probate, contest the same or the validity of the will. For that purpose he must file in the division of the court in which the will was proved a petition in writing, containing his allegations against the validity of the will or against the sufficiency of the proof, and praying that the probate may be revoked.

CROSS-REFERENCES

Allegations against validity of will, see section 1231 of this title.
Probate, when conclusive, see section 1257 of this title.

1252. Citation to be issued to parties interested.—Upon filing the petition, and within one year after such probate, a citation must be issued to the executor of the will, or to the administrator with the will annexed, and to all the legatees and devisees mentioned in the will, and heirs residing in the Canal Zone, so far as known to the petitioner or to their guardians, if any of them are minors, or to their personal representatives, if any of them are dead, requiring them to appear before the court on some day therein specified, to show cause why the probate of the will should not be revoked.

CROSS-REFERENCES

Citation, see sections 1683 to 1687 of this title.
Guardians, see sections 1694, and 1721 et seq., of this title.

1253. The hearing had on proof of service.—At the time appointed for showing cause, or at any time to which the hearing is postponed, proof having been made of service of the citation upon all of the persons named therein, the court must proceed to try the issues of fact joined in the same manner as an original contest of a will.

CROSS-REFERENCES

Proof of notice, see section 1219 of this title.
Trial of issues joined, see section 1231 of this title.

1254. Petitions to revoke probate of will tried by jury or court; judgment, what.—In all cases of petitions to revoke the probate of a will, wherein the original probate was granted without a contest, on written demand of either party, filed three days prior to the hearing, a trial by jury must be had, as in cases of the contest of an original petition to admit a will to probate. If, upon hearing the proofs of the parties, the jury shall find, or, if no jury is had, the court shall decide, that the will is for any reason invalid, or that it is not sufficiently proved to be the last will of the testator, the probate must be annulled and revoked.

CROSS-REFERENCE

Trial by jury, see sections 1232 and 1233 of this title.

1255. On revocation of probate, powers of executor, etc., cease, but not liable for acts in good faith.—Upon the revocation being made, the powers of the executor or administrator with the will annexed, must cease; but such executor or administrator shall not be liable for any act done in good faith previous to the revocation.

CROSS-REFERENCE

Validity of acts before revocation, see section 1396 of this title.

1256. Costs and expenses, by whom paid.—The fees and expenses must be paid by the party contesting the validity or probate of the will, if the will or probate is confirmed. If the probate is revoked, the costs must be paid by the party who resisted the revocation, or out of the property of the decedent, as the court directs.

CROSS-REFERENCE

Costs, generally, see sections 1001 et seq., of this title.

1257. Probate, when conclusive; one year after removal of disability given to infants and others.—If no person, within one year after the probate of a will, contest the same or the validity thereof, the probate of the will is conclusive; saving to infants and persons of unsound mind, a like period of one year after their respective disabilities are removed.

CROSS-REFERENCE

Conclusiveness of probate, see sections 1251 and 1934 of this title.

ARTICLE 5.—PROBATE OF LOST OR DESTROYED WILL

Sec.
1261. Proof of lost or destroyed will to be taken.
1262. Probate of wills lost; public calamity.
1263. To be certified, recorded, and letters thereon granted.
1264. Court to restrain injurious acts of executors or administrators during proceedings to prove lost will.

1261. Proof of lost or destroyed will to be taken.—Whenever any will is lost or destroyed, the district court must take proof of the execution and validity thereof and establish the same; notice to all persons interested being first given, as prescribed in regard to proofs of wills in other cases. All the testimony given must be reduced to writing, and signed by the witnesses.

CROSS-REFERENCES

Notice to all persons interested, see sections 1216 and 1217 of this title.
By citation, see sections 1683 to 1687 of this title.
Service of papers, see sections 941 et seq., of this title.

1262. Probate of wills lost; public calamity.—No will shall be proved as a lost or destroyed will, unless the same is proved to have been in existence at the time of the death of the testator, or is shown to have been fraudulently or by public calamity destroyed in the lifetime of the testator, without his knowledge, nor unless its provisions are clearly and distinctly proved by at least two credible witnesses: *Provided, however*, That if the testator be committed to any hospital for the insane in the Canal Zone and after such commitment his last will and testament be destroyed by public calamity, and the testator is never restored to competency, then after the death of the said testator, his said last will may be probated as though it were in existence at the time of the death of the testator.

1263. To be certified, recorded, and letters thereon granted.—When a lost will is established, the provisions thereof must be distinctly stated and certified by the judge, under his hand and seal of the court, and the certificate must be filed and recorded as other wills are filed and recorded, and letters testamentary or of administration, with the will annexed, must be issued thereon in the same manner as upon wills produced and duly proved. The testimony must be reduced to writing, signed, certified, and filed as in other cases, and shall have the same effect as evidence as provided in section 1235 of this title.

CROSS-REFERENCE

Letters testamentary, etc., see sections 1282 et seq., of this title.

1264. Court to restrain injurious acts of executors or administrators during proceedings to prove lost will.—If, before or during the pendency of an application to prove a lost or destroyed will, letters of administration are granted on the estate of the testator, or letters testamentary of any previous will of the testator are granted, the court may restrain the administrators or executors, so appointed, from any acts or proceedings which would be injurious to the legatees or devisees claiming under the lost or destroyed will.

ARTICLE 6.—PROBATE OF NUNCUPATIVE WILL

Sec.
1271. Nuncupative wills, when and how admitted to probate.
1272. Additional requirements in probate of nuncupative wills.
1273. Contests and appointments to conform to provisions as to other wills.

1271. Nuncupative wills, when and how admitted to probate.—Nuncupative wills may at any time, within six months after the testamentary words are spoken by the decedent, be admitted to probate, on petition and notice as provided in sections 1211 to 1224 of this title. The petition, in addition to the jurisdictional facts, must allege that the testamentary words or the substance thereof were reduced to writing within thirty days after they were spoken, which writing must accompany the petition.

CROSS-REFERENCES

Nuncupative wills, see title 3, sections 535 to 538.
Petition, notice and proof, see sections 1211 to 1223 of this title.

1272. Additional requirements in probate of nuncupative wills.—The district court must not receive or entertain a petition for the probate of a nuncupative will until the lapse of ten days from the death of the testator, nor must such petition at any time be acted on until the testamentary words are, or their substance is, reduced to writing and filed with the petition, nor until the surviving husband or wife (if any), and all other persons resident in the Canal Zone interested in the estate are notified as hereinbefore provided.

1273. Contests and appointments to conform to provisions as to other wills.—Contests of the probate of nuncupative wills and appointments of executors and administrators of the estate devised thereby must be had, conducted, and made as hereinbefore provided in cases of the probate of written wills.

CROSS-REFERENCES

Probate contests, see sections 1231, et seq., and 1251 et seq., of this title.
Contesting appointment of executors, etc., see sections 1285 and 1324 of this title.

CHAPTER 25.—EXECUTORS AND ADMINISTRATORS, THEIR LETTERS, BONDS, REMOVALS, AND SUSPENSIONS

Art. Sec.
1. Letters testamentary and of administration with the will annexed, how and to whom issued — 1281
2. Form of letters — 1301
3. Letters of administration, to whom and the order in which they are granted — 1311
4. Petition and contest for letters and action thereon — 1321
5. Revocation of letters, and proceedings therefor — 1341
6. Oaths and bonds of executors and administrators — 1351
7. Special administrators, and their powers and duties — 1381
8. Wills found after letters of administration granted, and miscellaneous provisions — 1391
9. Disqualification of judge — 1401
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ARTICLE 1.—LETTERS TESTAMENTARY AND OF ADMINISTRATION WITH THE WILL ANNEXED, HOW AND TO WHOM ISSUED

Sec.
1281. Trust companies as executors.
1282. Issue of letters.
1283. Who incompetent as executor.
1284. When no executor is named in will.
1285. Interested parties may file objections.
1286. Married woman may be executrix.
1287. Executor of an executor.
1288. Letters of administration where minor executor.
1289. Acts of a portion of executors valid.
1290. Authority of administrators with will annexed; letters, how issued.

Section 1281. Trust companies as executors.—Corporations or associations authorized to conduct the business of a trust company in the Canal Zone may be appointed to act as an executor, administrator, guardian of estates, assignee, receiver, depositary, or trustee, in like manner as individuals.

Oath.—In all cases in which it is required that an executor, administrator, guardian of estates, assignee, receiver, depositary, or trustee, shall qualify by taking and subscribing an oath, or in which an affidavit is required, it shall be a sufficient qualification by such corporation if such oath be taken and subscribed or such affidavit be made by the president, vice president, secretary, manager, trust officer, or assistant trust officer: *Provided*, That any such appointment as guardian shall apply to the estate only, and not to the person.

1282. Issue of letters.—If no objection is made as provided in section 1285 of this title, the court admitting a will to probate, after the same is proved and allowed, must issue letters thereon to the persons named therein as executors who are competent to discharge the trust, unless they or either of them have renounced their right to letters.

Cross-References

Form of letters, see section 1301 of this title.
Qualification of executors, see sections 1351 et seq. of this title.
Powers before qualification, see title 3, section 625.
Appointment of person intended although not named, see title 3, section 623.

1283. Who incompetent as executor.—No person is competent to serve as executor who, at the time the will is admitted to probate, is:

1. Under the age of majority;
2. Convicted of an infamous crime;
3. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity.

CROSS-REFERENCES

Letters where minor executor, see section 1288 of this title.
Who incompetent as administrators, see section 1315 of this title.
Marriage as affecting competency, see section 1286 of this title.
Letters of administration with will annexed, see section 1290 of this title.
Authority of executor before qualification, see title 3, section 625.

1284. When no executor is named in will.—If no executor is named in the will, or if the sole executor or all the executors therein named are dead, or incompetent, or renounce, or fail to apply for letters, or to appear and qualify, letters of administration with the will annexed must be issued as designated and provided for in granting of letters in case of intestacy.

CROSS-REFERENCES

Failure to apply for letters, see section 1214 of this title.
Letters of administration with will annexed, see sections 1288, 1290, and 1394 of this title.

1285. Interested parties may file objections.—Any person interested in the estate or will may file objections in writing to granting letters testamentary to the persons named as executors or any of them, and the objections must be heard and determined by the court; a petition may, at the same time, be filed for letters of administration with the will annexed.

CROSS-REFERENCE

Letters of administration with will annexed, see section 1290 of this title.

1286. Married woman may be executrix.—A married woman may be appointed an executrix. The authority of an executrix who was unmarried when appointed is not extinguished nor affected by her marriage.

CROSS-REFERENCE

Married woman may be administratrix, see section 1316 of this title.

1287. Executor of an executor.—No executor of an executor shall, as such, be authorized to administer on the estate of the first testator, but on the death of the sole or surviving executor of any last will, letters of administration with the will annexed, of the estate of the first testator, left unadministered, must be issued.

CROSS-REFERENCES

Letters of administration with will annexed, see sections 1284, 1290, 1394 of this title.
Authority given executor to appoint an executor, invalidity, see title 3, section 624.

1288. Letters of administration where minor executor.—Where a person absent from the Canal Zone, or a minor, is named executor—if there is another executor who accepts the trust and qualifies—the latter may have letters testamentary and administer the estate until the return of the absentee or the majority of the minor, who may then be admitted as joint executor. If there is no other executor, letters of administration, with the will annexed, must be granted;

but the court may, in its discretion, revoke them on the return of the absent executor or the arrival of the minor at the age of majority.

1289. Acts of a portion of executors valid.—When all the executors named are not appointed by the court, those appointed have the same authority to perform all acts and discharge the trust, required by the will, as effectually for every purpose as if all were appointed and should act together; where there are two executors or administrators, the act of one alone shall be effectual, if the other is absent from the Canal Zone, or laboring under any legal disability from serving, or if he has given his co-executor or co-administrator authority, in writing, to act for both; and where there are more than two executors or administrators, the act of a majority is valid.

CROSS-REFERENCES

Remainder of executors acting, where some incapacitated, see section 1393 of this title.

Powers of executors generally, see sections 1521 et seq., of this title.

Revocation of probate, effect of, see section 1255 of this title.

Removals and suspensions, see sections 1411 et seq., of this title.

1290. Authority of administrators with will annexed; letters, how issued.—Administrators with the will annexed have the same authority over the estates which executors named in the will would have, and their acts are as effectual for all purposes. Their letters must be signed by the clerk of the court, and bear the seal thereof.

CROSS-REFERENCES

Executor of executor, see section 1287 of this title.

Letters of administration with will annexed, see sections 1284, 1287, 1392, and 1394 of this title.

Form of letters with will annexed, see section 1302 of this title.

ARTICLE 2.—FORM OF LETTERS

Sec.
1301. Form of letters testamentary.
1302. Form of letters of administration with the will annexed.
1303. Form of letters of administration.

1301. Form of letters testamentary.—Letters testamentary must be substantially in the following form:

> Canal Zone, ——— division
>
> The last will of A. B., deceased, a copy of which is hereto annexed, having been proved and recorded in the ——— division of the district court, C. D., who is named therein as such, is hereby appointed executor.
>
> Witness, G. H., clerk of the district court, with the seal of the court affixed the ——— day of ———, A. D., 19—.
>
> [SEAL]
>
> By order of the court:
>
> G. H., Clerk.

CROSS-REFERENCE

Seal required, see section 25 of this title.

1302. Form of letters of administration with the will annexed.—Letters of administration, with the will annexed, must be substantially in the following form:

Canal Zone, ——— division

The last will of A. B., deceased, a copy of which is hereto annexed, having been proved and recorded in the ——— division of the district court, and there being no executor named in the will (or as the case may be), C. D. is hereby appointed administrator with the will annexed.

Witness, G. H., clerk of the district court, with the seal of the court affixed, the ——— day of ———, A. D., 19—.

[SEAL]

By order of the court:

G. H., Clerk.

1303. Form of letters of administration.—Letters of administration must be signed by the clerk, under the seal of the court, and substantially in the following form:

Canal Zone, ——— division

C. D. is hereby appointed administrator of the estate of A. B., deceased.

Witness, G. H., clerk of the district court, with the seal thereof affixed, the ——— day of ———, A. D., 19—.

[SEAL]

By order of the court:

G. H., Clerk.

ARTICLE 3.—LETTERS OF ADMINISTRATION. TO WHOM AND THE ORDER IN WHICH THEY ARE GRANTED

Sec.
1311. Order of persons entitled to administer.
1312. Relatives of whole blood preferred to half blood.
1313. In discretion of court to appoint administrator, when.

Sec.
1314. When minor or incompetent entitled, who appointed administrator.
1315. Who are incompetent to act as administrators.
1316. Married woman may be administratrix.

1311. Order of persons entitled to administer.—Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, the relatives of the deceased being entitled to administer only when they are entitled to succeed to his estate or some portion thereof; and they are, respectively, entitled thereto in the following order:

1. The surviving husband or wife, or some competent person whom he or she may request to have appointed.
2. The children.
3. The father and mother.
4. The brothers and sisters.
5. The grandchildren.
6. The next of kin entitled to share in the distribution of the estate.
7. The public administrator.
8. The creditors.
9. Any person legally competent.

If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of his estate. This section shall apply to the relatives of the previously deceased spouse of decedent when entitled to succeed to some portion of the estate under subdivision 8 of section 633 of title 3.

CROSS-REFERENCES

Public administrator, generally, see sections 1702 et seq., of this title.
Competency of persons, see sections 1315 and 1316 of this title.
Recommendation by one entitled to administer, see section 1329 of this title.

1312. Relatives of whole blood preferred to half blood.—Of several persons claiming and equally entitled to administer, relatives of the whole blood must be preferred to those of the half blood.

1313. In discretion of court to appoint administrator, when.—When there are several persons equally entitled to the administration, the court may grant letters to one or more of them; and when a creditor is claiming letters the court may, in its discretion, at the request of another creditor, grant letters to any other person legally competent.

1314. When minor or incompetent entitled, who appointed administrator.—If any person entitled to administration is a minor, or an incompetent person, letters must be granted to his or her guardian, or any other person entitled to letters of administration, in the discretion of the court.

CROSS-REFERENCE

Guardian of minor, see sections 127, 128, 1721, and 1732 of this title.

1315. Who are incompetent to act as administrators.—No person is competent or entitled to serve as administrator or administratrix who is —

1. Under the age of majority.
2. Not a bona fide resident of the Canal Zone.
3. Convicted of an infamous crime.
4. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity.

CROSS-REFERENCES

Revoking letters, see section 1341 of this title.
Who incompetent to act as executors, see section 1283 of this title.

1316. Married woman may be administratrix.—A married woman may be appointed administratrix. When an unmarried woman appointed administratrix marries, her authority is not thereby extinguished.

CROSS-REFERENCE

Married woman as executrix, see section 1286 of this title.

ARTICLE 4.—PETITION AND CONTEST FOR LETTERS AND ACTION THEREON

Sec.
1321. Petition for letters, how made.
1322. Letters of administration, when granted.
1323. Date for and notice of hearing.
1324. Contesting application.
1325. Hearing of application.
1326. Evidence of notice.
1327. Grant to any applicant.

Sec.
1328. What proofs must be made before granting letters of administration.
1329. Letters may be granted to others than those entitled.
1330. Requests for special notice of proceedings; giving notices; finding regarding notices.
1331. United States as a party to estates, proceedings, etc.

1321. Petition for letters, how made.—Petitions for letters of administration must be in writing, signed by the applicant or his counsel, and filed with the clerk of the court, stating the facts essential to give the court jurisdiction of the case, and when known to the applicant, he must state the names, ages, and residences of the heirs of the decedent, and the value and character of the property. If the jurisdictional facts exist, and are proved at the hearing but are not fully set forth in the petition, the decree or order of administration and subsequent proceedings are not void on account of such want of jurisdictional averments.

CROSS-REFERENCE

Orders and decrees need not recite the facts, see section 1681 of this title.

1322. Letters of administration, when granted.—Letters of administration may be granted by the court at any time appointed for the hearing of the application, or at any time to which the hearing is continued or postponed.

1323. Date for and notice of hearing.—When a petition praying for letters of administration is filed, the clerk of the court must set the petition for hearing by the court, and give notice thereof by causing a notice to be posted at the courthouse which notice shall contain the name of the decedent, the name of the applicant, and the time at which the application will be heard. Such notice must be given at least ten days before the hearing. The clerk shall cause similar notice to be mailed to the heirs of the decedent named in the petition, at least ten days before the hearing, addressed to them at their respective post-office addresses, as set forth in the petition, otherwise at the place where the proceedings are pending.

CROSS-REFERENCE

Posting notices, compare section 1216 of this title.

1324. Contesting application.—Any person interested may contest the petition, by filing written opposition thereto, on the ground of the incompetency of the applicant, or may assert his own rights to the administration and pray that letters be issued to himself. In the latter case the contestant must file a petition and give the notice required for an original petition, and the court must hear the two petitions together.

CROSS-REFERENCES

Incompetency of applicant, see section 1315 of this title.
Persons entitled to administer, see section 1311 of this title.

1325. Hearing of application.—On the hearing, it being first proved that notice has been given as herein required, the court must hear the allegations and proofs of the parties, and order the issuing of letters of administration to the party best entitled thereto.

CROSS-REFERENCE

Proof of notice, compare section 1219 of this title.

1326. Evidence of notice.—An entry in the minutes of the court, that the required proof was made and notice given, shall be conclusive evidence of the fact of such notice.

1327. Grant to any applicant.—Letters of administration must be granted to any applicant, though it appears that there are other persons having better rights to the administration, when such persons fail to appear and claim the issuing of letters to themselves.

CROSS-REFERENCE

Persons with better rights may procure revocation, see sections 1341 to 1344 of this title.

1328. What proofs must be made before granting letters of administration.—Before letters of administration are granted on the estate of any person who is represented to have died intestate, the fact of his dying intestate must be proved by the testimony of the applicant or others; and the court may also examine any other person concerning the time, place, and manner of his death, the place of his residence at the time, the value and character of his property, and whether or not the decedent left any will, and may compel any person to attend as a witness for that purpose.

CROSS-REFERENCE

Compelling attendance of witnesses, see sections 2041 et seq., of this title.

1329. Letters may be granted to others than those entitled.—Administration may be granted to one or more competent persons, although not otherwise entitled to the same, at the written request of the person entitled, filed in the court. When the person entitled is a nonresident of the Canal Zone, affidavits, taken ex parte before any officer authorized by the laws of the Canal Zone to take acknowledgments and administer oaths out of the Canal Zone, may be received as prima facie evidence of the identity of the party, if free from suspicion, and the fact is established to the satisfaction of the court.

CROSS-REFERENCES

Proof of identity by affidavit, see sections 2071 to 2077 of this title.

Proof by deposition taken outside of Canal Zone, see sections 2091 et seq., of this title.

Prima facie evidence, see section 1851 of this title.

1330. Request for special notice of proceedings; giving notices; finding regarding notices.—At any time after the issuance of letters testamentary or of administration upon the estate of any decedent, any person interested in said estate, whether as heir, devisee, legatee, or creditor, or the attorney for any such person may serve upon the executor or administrator, or upon the attorney for the executor or administrator, and file with the clerk of the court wherein administration of such estate is pending, a written request, stating that he desires special notice of any or all of the following mentioned matters, steps, or proceedings in the administration of said estate, to wit:

(1) Filing of petitions for sales, leases, or mortgages and confirmation of sales of any property of the estate;
(2) Filing of accounts;
(3) Filing of petitions for distribution;
(4) Filing of petitions for partition of any property of the estate.

Such request shall state the post-office address of the person making same.

Giving of notices.—And thereafter a brief notice of the filing of any of such petitions, or accounts, except petitions for sale of perishable property or other personal property which will incur expense or loss by keeping, shall be addressed to such person making such request, or his attorney, at his stated post-office address, and deposited in the post office with the postage thereon prepaid, within two days after the filing of such petition or account; or personal service of such notices may be made on the person making such request or his attorney, within said two days, and such personal service shall be equivalent to such deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of such petition or account.

Finding regarding notices.—If upon the hearing it shall appear to the satisfaction of the court that said notice has been regularly given, the court shall so find in its order or judgment, and such judgment shall be final and conclusive upon all persons.

1331. United States as a party to estates, proceedings, etc.— Where compensation, pensions, insurance or other allowance is made or awarded by the United States Government or a department or bureau thereof, to estates of decedents or to minor or incompetent persons for whom guardians have been appointed, or to their estates, the department or bureau of the United States Government making or awarding such allowance, compensation, pension, or insurance shall have the same right to commence and prosecute actions on executors, administrators, and guardians' bonds, and shall have the same right to petition the court for appointment or removal of guardians of minor and incompetent persons, and shall have the same right to file exceptions in writing to accounts of executors, administrators, and guardians and to contest same, as is provided in this title for interested parties, heirs at law, and relatives.

ARTICLE 5.—REVOCATION OF LETTERS, AND PROCEEDINGS THEREFOR

Sec.
1341. Revocation of letters of administration.
1342. When petition filed, citation to issue.
1343. Hearing of petition for revocation
1344. Prior rights of relatives entitle them to revoke prior letters.

1341. Revocation of letters of administration.—When letters of administration have been granted to any other person than the surviving husband or wife, child, father, mother, brother, or sister of the intestate, any one of them who is competent, or any competent person at the written request of any one of them, may obtain the revocation of the letters, and be entitled to the administration, by presenting to the court a petition praying the revocation, and that letters of administration may be issued to him.

Cross-References

Persons incompetent, see section 1315 of this title.
Revocation, see sections 1344, and 1411 to 1415 of this title.

1342. When petition filed, citation to issue.—When such petition is filed, the clerk must, in addition to the notice provided in section 1323 of this title, issue a citation to the administrator to appear and answer the same at the time appointed for the hearing.

Cross-Reference

Citation, generally, see sections 1683 to 1687 of this title.

1343. Hearing of petition for revocation.—At the time appointed, the citation having been duly served and returned, the court must proceed to hear the allegations and proofs of the parties; and if the right of the applicant is established, and he is competent, letters of administration must be granted to him, and the letters of the former administrator revoked.

1344. Prior rights of relatives entitle them to revoke prior letters.—The surviving husband or wife, when letters of administration have been granted to a child, father, brother, or sister of the intestate; or any of such relatives, when letters have been granted to any other of them, may assert his prior right, and obtain letters of administration, and have the letters before granted revoked in the manner prescribed in sections 1341 to 1343 of this title.

ARTICLE 6.—OATHS AND BONDS OF EXECUTORS AND ADMINISTRATORS

Sec.
1351. Oath of executor or administrator; recording letters.
1352. Bond of executor or administrator.
1353. Conditions of bonds.
1354. Separate bonds, when more than one administrator.
1355. Several recoveries may be had on same bond.
1356. Justification of sureties.
1357. Citation and requirements of judge on deficient bond; additional security.
1358. Right ceases when sufficient security not given.
1359. When bond may be dispensed with.
1360. Petition showing failing sureties and asking for further bonds.
1361. Citation to executor, etc., to show cause against such application.
1362. Further security may be ordered.
1363. Neglecting to obey order.
1364. Suspending powers of executor, etc.
1365. Further security ordered without application of party in interest.
1366. Release of sureties.
1367. New sureties.
1368. Neglect to give new sureties forfeits letters.
1369. Applications to be determined at any time.
1370. Liability on bond.

1351. Oath of executor or administrator; recording letters.—Before letters testamentary or of administration are issued to the executor or administrator, he must take and subscribe an oath before some officer authorized to administer oaths, that he will perform, according to law, the duties of executor or administrator, which oath must be attached to the letters. All letters testamentary, and of administration, with the affidavits and certificates thereon, must be forthwith recorded by the clerk of the court, in books to be kept by him in his office for that purpose.

1352. Bond of executor or administrator.—Every person to whom letters testamentary or of administration are directed to issue, must, before receiving them, execute a bond to the Government of the Canal Zone, with two or more sufficient sureties, to be approved by the district court, or the judge thereof. In form the bond must be joint and several, and the penalty shall be in such reasonable sum as the court shall direct.

CROSS-REFERENCES

Sureties, see sections 1356, 1357, 1360 to 1363, 1366, 1367, and 1370 of this title.
Approved by judge at chambers, see section 27 of this title.
Conditions of bond, see section 1353 of this title.
Separate bonds, see section 1354 of this title.
Recovery on bonds, see sections 1355 and 1370 of this title.
When bond may be dispensed with, see section 1359 of this title.
Executor not to act until qualified, see title 3, section 625.

1353. Conditions of bonds.—The bond must be conditioned that the executor or administrator shall faithfully execute the duties of the trust according to law.

CROSS-REFERENCE

Duties of executor, see sections 1521 et seq., of this title.

1354. Separate bonds, when more than one administrator.—When two or more persons are appointed executors or administrators, the district court, or the judge thereof, must require and take a separate bond from each of them.

1355. Several recoveries may be had on same bond.—The bond shall not be void upon the first recovery, but may be sued and recovered upon from time to time, by any person aggrieved, in his own name, until the whole penalty is exhausted.

CROSS-REFERENCE

Action to be in name of real party in interest, see section 122 of this title.

1356. Justification of sureties.—In all cases where bonds or undertakings are required to be given, under chapters 23 to 36 of this title, the sureties must justify thereon in the same manner and in like amounts as required by section 963 of this title, and the certificate thereof must be attached to and filed with the bond or undertaking. All such bonds and undertakings must be approved by the judge of the district court before being filed. Upon filing, the clerk shall thereupon enter in the register of actions the date and amount of such bond or undertaking and the name or names of the surety or sureties thereon. In the event of the loss of such bond or undertaking, such entries so made shall be prima facie evidence of the due execution of such bond or undertaking as required by law.

CROSS-REFERENCE

Approval by judge at chambers, see section 27 of this title.

1357. Citation and requirements of judge on deficient bond; additional security.—Before the judge approves any bond required under chapters 23 to 36 of this title, and after its approval, he may, of his own motion, or upon the motion of any person interested in the estate, supported by affidavit that the sureties, or some one or more of them, are not worth as much as they have justified to, order a citation to issue requiring such sureties to appear before him at a designated time and place, to be examined touching their property and its value; and the judge must, at the same time, cause a notice to be issued to the executor or administrator requiring his appearance on the return of the citation; and on its return he may examine the sureties and such witnesses as may be produced, touching the property of the sureties and its value; and if, upon such examination, he is satisfied that the bond is insufficient, he must require sufficient additional security.

CROSS-REFERENCE

Citation, see sections 1683 to 1687 of this title.

1358. Right ceases when sufficient security not given.—If sufficient security is not given within the time fixed by the judge's order, the right of such executor or administrator to the administration shall cease, and the person next entitled to the administration on the estate, who will execute a sufficient bond, must be appointed to the administration.

1359. When bond may be dispensed with.—When it is expressly provided in the will that no bond shall be required of the executor, letters testamentary may issue without any bond, unless the court, for good cause, require one to be executed; but the executor may at any time afterwards (if it appear from any cause necessary or proper) be required to file a bond, as in other cases.

1360. Petition showing failing sureties and asking for further bonds.—Any person interested in an estate may, by verified petition, represent to the district court, or the judge thereof, that the sureties of the executor or administrator thereof have become, or are becoming, insolvent, or that they have removed, or are about to remove, from the Canal Zone, or that from any other cause the bond is insufficient, and ask that further security be required.

CROSS-REFERENCE

Court may ask further security, see section 1365 of this title.

1361. Citation to executor, etc., to show cause against such application.—If the court, or the judge thereof, is satisfied that the matter requires investigation, a citation must be issued to the executor or administrator requiring him to appear, at a time and place to be therein specified, to show cause why he should not give further security. The citation must be served personally on the executor or administrator, at least five days before the return day. If he has absconded, or cannot be found, it may be served by leaving a copy of it at his place of residence, or by such publication as the court, or the judge thereof, may order.

CROSS-REFERENCE

Citation on deficient bond, see section 1357 of this title.

1362. Further security may be ordered.—On the return of the citation, or at such other time as the judge may appoint, he must proceed to hear the proofs and allegations of the parties. If it satisfactorily appears that the security is, from any cause, insufficient, he may make an order requiring the executor or administrator to give further security, or to file a new bond in the usual form within a reasonable time, not less than five days.

1363. Neglecting to obey order.—If the executor or administrator neglects to comply with the order within the time prescribed, the judge must, by order, revoke his letters, and his authority must thereupon cease.

Cross-Reference

Neglect to give new sureties forfeits letters, see section 1368 of this title.

1364. Suspending powers of executor, etc.—When a petition is presented praying that an executor or administrator be required to give further security, or to give bond, where, by the terms of the will, no bond was originally required, and it is alleged, on oath, that the executor or administrator is wasting the property of the estate, the judge may, by order, suspend his powers until the matter can be heard and determined.

1365. Further security ordered without application of party in interest.—When it comes to his knowledge that the bond of any executor or administrator is from any cause insufficient, the judge, without any application, must cause him to be cited to appear and show cause why he should not give further security, and must proceed thereon as upon the application of any person interested.

1366. Release of sureties.—When a surety of any executor or administrator desires to be released from responsibility on account of future acts, he may make application to the district court, or the judge thereof, for relief. The court or judge must cause a citation to the executor or administrator to be issued, and served personally, requiring him to appear at a time and place, to be therein specified, and to give other security. If he has absconded, left, or removed from the Canal Zone, or if he cannot be found, after due diligence and inquiry, service may be made as provided in section 1361 of this title.

1367. New sureties.—If new sureties be given to the satisfaction of the judge, he may thereupon make an order that the sureties who applied for relief shall not be liable on their bond for any subsequent act, default, or misconduct of the executor or administrator.

1368. Neglect to give new sureties forfeits letters.—If the executor or administrator neglects or refuses to give new sureties, to the satisfaction of the judge, on the return of the citation, or within such reasonable time as the judge shall allow, unless the surety making the application shall consent to a longer extension of time, the court or judge must, by order, revoke his letters.

Cross-Reference

Forfeiture of right when sufficient sureties not given, see sections 1358 and 1363 of this title.

1369. Applications to be determined at any time.—The applications authorized by sections 1360 to 1368 of this title may be heard and determined at any time. All orders made therein must be entered upon the minutes of the court.

1370. Liability on bond.—The liability of principal and sureties upon the bond of any executor, administrator, or guardian is in all cases to pay in the kind of money or currency in which the principal is legally liable.

CROSS-REFERENCE

Debts payable in particular kind of money, see sections 1477 and 1591 of this title.

ARTICLE 7.—SPECIAL ADMINISTRATORS, AND THEIR POWERS AND DUTIES

Sec.
1381. Special administrator, when appointed.
1382. Appointment; issuance of letters.
1383. Preference in appointment.
1384. Bond and oath of.
1385. Powers and duties.
1386. When letters testamentary or of administration are granted, special administrator's powers cease.
1387. Account.
1388. Payment of secured debts by special administrators.

1381. Special administrator, when appointed.—When there is delay in granting letters testamentary or of administration from any cause, or when such letters are granted irregularly, or no sufficient bond is filed as required, or when no application is made for such letters, or when an executor or administrator dies, or is suspended, or removed, the district court or judge must appoint a special administrator to collect and take charge of the estate of the decedent in whatever division the same may be found, and to exercise such other powers as may be necessary for the preservation of the estate; or he may direct the public administrator to take charge of the estate.

CROSS-REFERENCE

Duties of special administrator, see section 1385 of this title.

1382. Appointment; issuance of letters.—The appointment may be made at any time upon such notice to such of the persons interested in the estate as the court may deem reasonable. After the person appointed has given bond, the clerk must issue special letters of administration to such person.

CROSS-REFERENCE

Oath and bond, see section 1384 of this title.

1383. Preference in appointment.—In making the appointment of a special administrator the court must give preference to the person entitled to letters testamentary, or of administration.

CROSS-REFERENCE

Persons entitled to letters, see sections 1311 et seq., of this title.

1384. Bond and oath of.—Before any letters issue to any special administrator, except to the public administrator, he must give bond in such sum as the court or judge may direct, with sureties to the satisfaction of the court or judge, conditioned for the faithful performance of his duties; and he must take the usual oath, and have the same indorsed on his letters.

CROSS-REFERENCE

Oath and bond of administrator, see sections 1351 et seq., of this title.

1385. **Powers and duties.**—The special administrator must collect and preserve for the executor or administrator, all the goods, chattels, debts, and effects of the decedent, all incomes, rents, issues, and profits, claims, and demands of the estate; must take the charge and management of, enter upon, and preserve from damage, waste, and injury, the real estate, and for any such and all necessary purposes may commence and maintain or defend suits and other legal proceedings as an administrator; he may sell such perishable property as the court may order to be sold, and exercise such other powers as are conferred upon him by his appointment, but except when appointed with the powers, duties, and obligations of a general administrator, as hereinafter provided, he is not liable to an action by any creditor on a claim against the decedent.

When a special administrator is appointed pending determination of a contest of a will instituted prior to the probate thereof, or pending an appeal from an order appointing, suspending, or removing an executor or administrator, such special administrator shall have the same powers, duties, and obligations as a general administrator, and the letters of administration issued to him shall recite that such special administrator is appointed with the powers of a general administrator.

CROSS-REFERENCE

Account of administrator, see sections 1571 et seq., of this title.

1386. **When letters testamentary or of administration are granted, special administrator's powers cease.**—When letters testamentary or of administration on the estate of the decedent have been granted, the powers of the special administrator cease, and he must forthwith deliver to the executor or administrator all the property and effects of the decedent in his hands; and the executor or administrator may prosecute to final judgment any suit commenced by the special administrator.

1387. **Account.**—The special administrator must render an account on oath of his proceedings in like manner as other administrators are required to do.

His fees and those of his attorney shall be fixed by the court: *Provided, however*, That the total fees paid to the special administrator and executor, or to the special administrator and general administrator of an estate must not, together, exceed the sums provided for in section 1567 of this title, including the further allowance therein provided; and that the total fees paid to the attorneys both of the special administrator and executor, or of the special administrator and general administrator, must not, together, exceed the sums provided for in section 1568 of this title, including the further allowance therein provided.

And when the same person does not act as both special administrator and executor, or as special administrator and general administrator, of the estate, such fees shall be divided between the special administrator and executor, or between the special administrator and general administrator of the estate, in such proportions as the court shall determine to be just and reasonable.

And when the same attorney does not act for both the special administrator and executor, or for the special administrator and general administrator of the estate, such fees shall be divided between the attorneys in such proportion as the court shall determine to be just and reasonable.

1388. Payment of secured debts by special administrators.—If it shall appear by the verified petition of any special administrator, or other person interested in any estate in the charge of any special administrator, that any of the property of said estate is subject to any mortgage, lien, or deed of trust, to secure the payment of money, and that any amount so secured, either principal or interest, is past due and unpaid; that the holder of the security threatens or is about to enforce or foreclose the same and that the said property exceeds in value the amount of the entire obligation thereon, and an order is asked directly or permitting said special administrator to pay all or any part of the amount so secured, the court or judge shall fix a time for the hearing of said petition and shall direct notice of not less than ten days to be given by posting in three public places and by personal service on all parties who have appeared or their attorneys. At the time so appointed, if the allegations of such petition shall be proven to the satisfaction of the court and it shall appear to be for the best interests of said estate, the court may order the special administrator to pay interest or other portions or the whole of the secured debt, and, in its discretion, may direct the special administrator to take proceedings to secure funds for such purpose. Any such order for payment of interest may also direct that interest not yet accrued be paid as it becomes due and such order shall remain in effect and cover such future interest until and unless thereafter for good cause set aside or modified by the court upon similar petition and notice to that hereinabove provided.

ARTICLE 8.—WILLS FOUND AFTER LETTERS OF ADMINISTRATION GRANTED, AND MISCELLANEOUS PROVISIONS

Sec.
1391. Preexisting grant of letters, when revoked.
1392. Power of executor in such a case.
1393. Remaining administrator or executor to continue when his colleagues are disqualified.
1394. Who to act when all acting are incompetent.
1395. Executor or administrator may resign, when; court to appoint successor; liability of outgoer.
1396. All acts of executor, etc., valid until his power is revoked.
1397. Transcript of court minutes to be evidence.

1391. Preexisting grant of letters, when revoked.—Upon the admission to probate of a will after a grant of letters of administration on the ground of intestacy, or upon the admission to probate of a later will than the one before admitted to probate, the preexisting grant of letters testamentary or of administration must be revoked, and the administrator or executor whose grant of authority is thus terminated must render an account of his administration within such time as the court may direct.

CROSS-REFERENCES

Account of administrator, see sections 1571 et seq., of this title.
Account after authority ended, see section 1575 of this title.

1392. **Power of executor in such a case.**—In such case, the executor or the administrator with the will annexed is entitled to demand, sue for, recover, and collect all the rights, goods, chattels, debts, and effects of the decedent remaining unadministered, and may prosecute to final judgment any suit commenced by the administrator before the revocation of his letters of administration.

CROSS-REFERENCE

Power of administrator with will annexed, see section 1290 of this title.

1393. **Remaining administrator or executor to continue when his colleagues are disqualified.**—In case any one of several executors or administrators, to whom letters are granted, dies, becomes lunatic, is convicted of an infamous crime, or otherwise becomes incapable of executing the trust; or in case the letters testamentary or of administration are revoked or annulled, with respect to any one executor or administrator, the remaining executor or administrator must proceed to complete the execution of the will or administration.

1394. **Who to act when all acting are incompetent.**—If all such executors or administrators die or become incapable. or the power and authority of all of them is revoked, the court must issue letters of administration, with the will annexed or otherwise, to the widow or next of kin, or others, in the same order and manner as is directed in relation to original letters of administration. The administrators so appointed must give bond in the like penalty, with like sureties and conditions, as hereinbefore required of administrators, and shall have the like power and authority.

CROSS-REFERENCES

Order and manner of granting letters of administration, see sections 1311 et seq., of this title.
Letters of administration with will annexed, see sections 1284, 1287 and 1290 of this title.
Oath and bond, see sections 1351 et seq., of this title.
Power and authority, see sections 1521 et seq., of this title.

1395. **Executor or administrator may resign, when; court to appoint successor; liability of outgoer.**—Any executor or administrator may, at any time, by writing, filed in the district court, resign his appointment, having first settled his accounts and delivered up all the estate to the person whom the court shall appoint to receive the same. If, however, by reason of any delays in such settlement and delivery up of the estate, or for any other cause, the circumstances of the estate or the rights of those interested therein require it, the court may, at any time before settlement of accounts and delivering up of the estate is completed, revoke the letters of such executor or administrator, and appoint in his stead an administrator, either special or general, in the same manner as is directed in relation to original letters of administration. The liability of the outgoing executor or administrator, or of the sureties on his bond, shall not be in any manner discharged, released, or affected by such appointment or resignation.

1396. All acts of executor, etc., valid until his power is revoked.—All acts of an executor or administrator, as such, before the revocation of his letters testamentary or of administration, are as valid, to all intents and purposes, as if such executor or administrator had continued lawfully to execute the duties of his trust.

1397. Transcript of court minutes to be evidence.—A transcript from the minutes of the court, showing the appointment of any person as executor or administrator, together with the certificate of the clerk, under his hand and the seal of his court, that such person has given bond and been qualified, and that letters testamentary or of administration have been issued to him and have not been revoked, shall have the same effect in evidence as the letters themselves.

CROSS-REFERENCE

Letters recorded, see section 1351 of this title.

ARTICLE 9.—DISQUALIFICATION OF JUDGE

1401. When judge not to act.—No will shall be admitted to probate, or letters testamentary or of administration granted, before any judge who is interested as next of kin to the decedent, or as a legatee or devisee under the will, or when he is named as executor or trustee in the will, or is a witness thereto, or is in any other manner interested or disqualified from acting.

ARTICLE 10.—REMOVALS AND SUSPENSIONS IN CERTAIN CASES

Sec.
1411. Suspension of powers of executor or administrator.
1412. Revocation of letters.
1413. Any party interested may appear on hearing.
1414. Notice to absconding executors and administrators.
1415. May compel attendance.

1411. Suspension of powers of executor or administrator.—Whenever the district judge has reason to believe from his own knowledge, or from credible information, that any executor or administrator has wasted, embezzled, or mismanaged, or is about to waste or embezzle the property of the estate committed to his charge, or has committed or is about to commit a fraud upon the estate, or is incompetent to act, or has removed or is about to remove from the Canal Zone, or has wrongfully neglected the estate, or has long neglected to perform any act as such executor or administrator, he must, by an order entered upon the minutes of the court, direct such executor or administrator to be cited to appear and show cause why his letters should not be revoked, and may also suspend the powers of such executor or administrator, until the matter is investigated.

CROSS-REFERENCES

Misconduct as to inventory, see sections 1438 and 1439 of this title.

Misconduct as to exhibit and account, see sections 1573, 1574, and 1576 of this title.

Suspension of executor, etc., at chambers, see section 27 of this title.

Removal of executor, see sections 1341 et seq., of this title.

Revocation of letters for waste, embezzlement or neglect, see section 1572 of this title.

Removal for contempt, see section 1693 of this title.

1412. Revocation of letters.—If the executor or administrator fails to appear in obedience to the citation, or, if he appears, and the court is satisfied from the evidence, that there exists cause for his removal, his letters must be revoked.

1413. Any party interested may appear on hearing.—At the hearing, any person interested in the estate may appear and file his allegations in writing, showing that the executor or administrator should be removed; to which the executor or administrator may demur or answer, as hereinbefore provided. The issues raised must be heard and determined by the court.

1414. Notice to absconding executors and administrators.—If the executor or administrator has absconded or conceals himself, or has removed or absented himself from the Canal Zone, notice may be given him of the pendency of the proceedings by publication, in such manner as the court may direct, and the court may proceed upon such notice as if the citation had been personally served.

CROSS-REFERENCE

Compare section 1576 of this title.

1415. May compel attendance.—In the proceedings authorized by the preceding sections of this article, for the removal of an executor or administrator, the court may compel his attendance by attachment, and may compel him to answer questions, on oath, touching his administration, and, upon his refusal so to do, may commit him until he obey, or may revoke his letters, or both.

CROSS-REFERENCES

Compelling obedience, compare sections 1573 and 1574 of this title.

Contempt, see sections 1163 et seq., of this title.

CHAPTER 26.—INVENTORY AND COLLECTION OF EFFECTS OF DECEDENTS

Art.	Sec.
1. Inventory, appraisement, and possession of estate	1431
2. Embezzlement and surrender of property of estate	1451

ARTICLE 1.—INVENTORY, APPRAISEMENT, AND POSSESSION OF ESTATE

Sec.
1431. Inventory and appraisement to be returned.
1432. Appraisers of estates of deceased persons.
1433. Oath of appraisers; inventory must show what.
1434. Inventory to account for moneys; if all money, no appraisement necessary.
1435. Effect of naming a debtor executor.
1436. Discharge or bequest of debt against executor.
1437. To make oath to inventory.
1438. Letters may be revoked for neglect of administrator.
1439. Inventory of after discovered property.
1440. Executor entitled to possess all of estate of decedent.
1441. Executor or administrator to deliver real estate to heirs or devisees.

Section 1431. Inventory and appraisement to be returned.—Every executor or administrator must make and return to the court, within thirty days after his appointment, a true inventory, and, also, if the court so direct, an appraisement of all the estate of the decedent which has come to his possession or knowledge.

CROSS-REFERENCES

Failure to return inventory, see section 1438 of this title.
Inventory of after discovered property, see section 1439 of this title.

1432. Appraisers of estates of deceased persons.—To make the appraisement, the court or judge must appoint three disinterested persons, any two of whom may act.

Each of said appraisers is entitled to receive from each estate he appraises, as compensation for his services, such sum as may be fixed by the court or judge.

The appraisers or appraiser must, with the inventory, file a verified account of their or his services and disbursements.

No clerk or deputy, nor any person related by consanguinity or affinity to or connected by marriage with, or being a partner or employee of the judge of the court, shall be appointed or shall be competent to act as appraiser in any estate, or matter or proceeding pending before said judge or in said court.

CROSS-REFERENCES

Appointment at chambers, see section 27 of this title.
Appraisement of interest in partnership, see section 1525 of this title.

1433. Oath of appraisers; inventory must show what.—Before proceeding to the execution of their duty, the appraisers must take and subscribe an oath, to be attached to the inventory, that they will truly, honestly, and impartially appraise the property exhibited to them, according to the best of their knowledge and ability.

They must then proceed to estimate and appraise the property; each item of property must be set down separately, with the value thereof in dollars and cents in figures, opposite the items respectively.

The inventory must contain all the estate of the decedent, real and personal, a statement of all debts, bonds, mortgages, notes, and other securities for the payment of money belonging to the decedent, specifying the name of the debtor in each debt or security, the date, the sum originally payable, the indorsement thereon (if any), with their dates, and the sum which, in the judgment of the appraisers, may be collected on each debt or security; and a statement of the interest of the decedent in any partnership of which he was a member, to be appraised as a single item.

The inventory must also show, so far as the same can be ascertained by the executor or administrator, what portion of the property is community property, and what portion is the separate property of the decedent.

CROSS-REFERENCES

Appraisement and inventory of partner's interest, see section 1525 of this title.
Oath to inventory, see section 1437 of this title.

1434. Inventory to account for moneys; if all money, no appraisement necessary.—The inventory must also contain an account of all moneys belonging to the decedent which have come to the hands of the executor or administrator, and if none, the fact must be so stated in the inventory.

1435. Effect of naming a debtor executor.—The naming of a person as executor does not thereby discharge him from any just claim which the testator has against him, but the claim must be included in the inventory, and the executor is liable for the same, as for so much money in his hands, when the debt or demand becomes due.

1436. Discharge or bequest of debt against executor.—The discharge or bequest in a will, of any debt or demand of the testator against the executor named, or any other person, is not valid against the creditors of the decedent, but is a specific bequest of the debt or demand. It must be included in the inventory, and, if necessary, applied in the payment of the debts. If not necessary for that purpose, it must be paid in the same manner and proportion as other specific legacies.

1437. To make oath to inventory.—The inventory must be signed by the appraisers, if any there be, and the executor or administrator must take and subscribe an oath, before an officer authorized to administer oaths, that the inventory contains a true statement of all the estate of the decedent which has come to his knowledge and possession, and particularly of all money belonging to the decedent, and of all just claims of the decedent against the affiant. The oath must be indorsed upon or annexed to the inventory.

CROSS-REFERENCE

Oath of appraisers, see section 1433 of this title.

1438. Letters may be revoked for neglect of administrator.—If an executor or administrator neglects or refuses to return the inventory within the time prescribed, or within such further time, not exceeding two months, which the court or judge shall, for reasonable cause, allow, the court may, upon notice, revoke the letters testamentory or of administration, and the executor or administrator is liable on his bond for any injury to the estate, or any person interested therein, arising from such failure.

CROSS-REFERENCE

Inventory, time to return, see section 1431 of this title.

1439. Inventory of afterdiscovered property.—Whenever property not mentioned in an inventory that is made and filed, comes to the possession or knowledge of an executor or administrator, he must cause the same to be appraised in the manner prescribed in this article, and an inventory thereof to be returned within two months after the discovery; and the making of such inventory may be enforced, after notice, by attachment or removal from office.

CROSS-REFERENCE

Enforcement by attachment, compare section 1415 of this title.

1440. Executor entitled to possess all of estate of decedent.—The executor or administrator is entitled to the possession of all the real and personal estate of the decedent, and to receive the rents and profits of the real estate until the estate is settled or until delivered over by the order of the court to the heirs or devisees; and must keep in good tenantable repair all houses, buildings, and fixtures thereon which are under his control. After the expiration of the time for the presentation of claims, he is not entitled to recover the possession of any property of the estate from any heir, who has succeeded to the property in his possession or from any devisee, or legatee, to whom the property has been devised or bequeathed, or from the assignee of any such heir, devisee, or legatee, unless he proves that the same is necessary for the payment of debts or legacies, or of expenses of administration already accrued, or for distribution to some other heir, devisee, or legatee entitled thereto. The heirs or devisees may themselves, or jointly with the executor or administrator, maintain an action for the possession of the real estate, or for the purpose of quieting title to the same, against anyone except the executor or administrator; but this section shall not be so construed as to require them so to do.

CROSS-REFERENCES

Acts of a portion of executors valid, see section 1289 of this title.
Possession of estate, see section 1521 of this title.
Partnership property, see section 1525 of this title.
Actions by executors, see sections 1451, and 1521 et seq., of this title.

1441. Executor or administrator to deliver real estate to heirs or devisees.—Unless it satisfactorily appear to the court that the rents, issues, and profits of the real estate for a longer period are necessary to be received by the executor or administrator, wherewith to pay the debts of the decedent, or that it will probably be necessary to sell the real estate for the payment of such debts, the court at the end of the time limited for the presentation of claims against the estate. must direct the executor or administrator to deliver possession of all the real estate to the heirs at law or devisees.

ARTICLE 2.—EMBEZZLEMENT AND SURRENDER OF PROPERTY OF ESTATE

Sec.
1451. Embezzling effects of a decedent.
1452. Citation to person suspected of embezzlement, concealment, etc., of property.
1453. Refusal to obey citation, penalty for, and for embezzlement; may be compelled to disclose by imprisonment; liable for double damages.
1454. Persons intrusted with estate of decedent may be cited to account.

1451. Embezzling effects of a decedent.—If any person embezzles, conceals, smuggles, or fraudulently disposes of any of the moneys, goods, chattels, or effects of a decedent, he is chargeable therewith, and liable to an action by the executor or administrator of the estate for double the value of the property so embezzled, concealed, smuggled, or fraudulently disposed of, to be recovered for the benefit of the estate.

CROSS-REFERENCE

Actions by executors, etc., generally, see sections 1440, 1453, and 1521 et seq., of this title.

1452. Citation to person suspected of embezzlement, concealment, etc., of property.—If any executor, administrator, or other person interested in the estate of a decedent, complains to the district court or judge, on oath, that any person is suspected to have concealed, embezzled, smuggled, or fraudulently disposed of any moneys, goods, or chattels of the decedent, or has in his possession or knowledge any deeds, conveyances, bonds, contracts, or other writings, which contain evidences of or tend to disclose the right, title, interest, or claim of the decedent to any real or personal estate, or any claim or demand, or any lost will, the said court or judge may cite such person to appear before such court, and may examine him on oath upon the matter of such complaint. But if he appears and is found innocent, his necessary expenses must be allowed him out of the estate.

1453. Refusal to obey citation, penalty for, and for embezzlement may be compelled to disclose by imprisonment; liable for double damages.—If the person so cited refuses to appear and submit to an examination, or to answer such interrogatories as may be put to him, touching the matters of the complaint, the court may, by warrant for that purpose, commit him to jail, there to remain in close custody until he submits to the order of the court or is discharged according to law. If, upon such examination, it appears that he has concealed, embezzled, smuggled, or fraudulently disposed of any moneys, goods, or chattels of the decedent, or that he has in his possession or knowledge any deeds, conveyances, bonds, contracts, or other writings containing evidences of or tending to disclose the right, title, interest, or claim of the decedent to any real or personal estate, claim, or demand, or any lost will of the decedent, the court may make an order requiring such person to disclose his knowledge thereof to the executor or administrator, and may commit him to jail, there to remain until the order is complied with, or he is discharged according to law; and all such interrogatories and answers must be in writing, signed by the party examined, and filed in the court. In addition to the examination of the party, witnesses may be produced and examined on either side.

CROSS-REFERENCE

Contempt, see section 1163 of this title.

1454. Persons intrusted with estate of decedent may be cited to account.—The district court or judge, upon the complaint, on oath, of any executor or administrator, may cite any person who has been intrusted with any part of the estate of the decedent to appear before such court, and require him to render a full account, on oath, of any moneys, goods, chattels, bonds, accounts, or other property or papers belonging to the estate, which have come to his possession in trust for the executor or administrator, and of his proceedings thereon; and if the person so cited refuses to appear and render such account, the court may proceed against him as provided in the next preceding section.

CHAPTER 27.—PROVISION FOR THE SUPPORT OF THE FAMILY

Sec.
1461. Widow and minor children may remain in possession of furniture and apparel.
1462. All property exempt from execution to be set apart for use of family.
1463. Notice of hearing; to whom sent.
1464. Court may make extra allowance.
1465. Payment of allowance.
1466. Property set apart, how apportioned.
1467. Administration of estate not exceeding $1,000 in value.
1468. When all property to go to children.

Section 1461. Widow and minor children may remain in possession of furniture and apparel.—When a person dies leaving a widow or minor children, the widow or children, until letters are granted and the inventory is returned, are entitled to remain in possession of all the wearing apparel of the family, and of all the household furniture of the decedent, and are also entitled to a reasonable provision for their support, to be allowed by the district court or judge.

CROSS-REFERENCES

Extra allowance, see section 1464 of this title.

Clothing of decedent and household effects not exceeding in value $2,500 to go to surviving wife without administration, see title 3, section 649.

1462. All property exempt from execution to be set apart for use of family.—Upon the return of the inventory, or at any subsequent time during the administration, the court may, on petition therefor, set apart for the use of the surviving husband or wife, or, in case of his or her death, to the minor children of the decedent, all the property exempt from execution.

1463. Notice of hearing; to whom sent.—When the petition mentioned in the next preceding section is filed the clerk of the court must set the petition for hearing by the court and give notice thereof by causing notices to be posted in at least three public places in the division, one of which must be at the place where the court is held, containing the name of the decedent, the name of the petitioner, the nature of the application, and the time at which the same will be heard. Such notice must be given at least ten days before the hearing, and a copy thereof must be mailed at least ten days before the day appointed for the hearing to the executor or administrator, if he be not the petitioner, and to any person named as coexecutor or coadministrator not petitioning, and upon the attorney of any person who has appeared or given notice of appearance (by an attorney) in the estate as heir, legatee, devisee, next of kin, or creditor, or as otherwise interested, addressed to them at their places of residence, or office, if known, and if not known, then to the place where the proceedings are pending. Proof of such posting and mailing must be made at the hearing.

1464. **Court may make extra allowance.**—If the property set apart is insufficient for the support of the widow and children, or either, the court or judge must take such reasonable allowance out of the estate as shall be necessary for the maintenance of the family, according to their circumstances, during the progress of the settlement of the estate, which, in case of an insolvent estate, must not be longer than one year after granting letters testamentary or of administration.

1465. **Payment of allowance.**—Any allowance made by the court or judge, in accordance with the provisions of this chapter, must be paid in preference to all other charges, except funeral charges and expenses of administration; and any such allowance whenever made, may, in the discretion of the court or judge, take effect from the death of the decedent.

1466. **Property set apart, how apportioned.**—When property is set apart to the use of the family, in accordance with the provisions of this chapter, such property, if the decedent left a surviving spouse and no minor child, is the property of such spouse. If the decedent left also a minor child or children, the one half of such property belongs to the surviving spouse, and the remainder to the child, or in equal shares to the children, if there are more than one. If there is no surviving spouse, the whole belongs to the minor child or children.

CROSS-REFERENCE

Where widow has a maintenance, see section 1468 of this title.

1467. **Administration of estate not exceeding $1,000 in value.**—If a deceased person leave a widow or minor child or minor children and upon the return of the inventory of the estate of such deceased person it shall appear to the court or judge by the verified petition of the personal representative of such deceased person or his widow or of the guardian of his minor children or of any of them that the net value of the whole estate of said deceased over and above all liens or encumbrances of record at the date of the death of said deceased does not exceed the sum of $1,000, not including the property excepted from administration under section 649 of title 3, the court, or judge, shall, by order, require all persons interested to appear on a day fixed to show cause why the whole of said estate should not be assigned for the use and support of the family of the deceased.

NOTICE OF HEARING.—Notice thereof shall be given and proceedings had in the same manner as provided in section 1463 of this title.

PROCEEDINGS ON HEARING.—If upon the hearing, the court finds that the net value of the estate over and above all liens or encumbrances of record at the date of the death of said deceased does not exceed the sum of $1,000, not including the property excepted from administration under section 649 of title 3, it shall, by decree for that purpose, assign to the widow of the deceased, if there be a widow, or if there be no widow, then to the minor children of the deceased, if there be minor children, the whole of the estate, subject to whatever mortgages, liens, or encumbrances there may be upon said estate at the time of the death of said deceased, after the payment of the expenses of the last illness of the deceased, funeral charges, and expenses of administration, and the title thereof shall vest absolutely in such widow, if there is a widow, or if there is no widow, in the minor children or child, subject to whatever mortgages, liens, or encumbrances there may be upon said estate at the time of the death of the deceased, and there must be no further proceedings in the administration, unless further estate be discovered.

1468. When all property to go to children.—If the widow has a maintenance derived from her own property equal to the portion set apart to her by the preceding sections of this chapter, the whole property so set apart must go to the minor children.

CHAPTER 28.—CLAIMS AGAINST ESTATE

Sec.
1471. Notice to creditors of decedents' estates.
1472. Time expressed in the notice.
1473. Filing copy of printed notice to creditors.
1474. Recording decree of notice to creditors.
1475. Claims not filed are barred.
1476. Claims must be sworn to.
1477. Claims to be allowed or rejected.
1478. Original instrument need not be filed with claim.
1479. Rejection of claim against estates.
1480. Claims barred by statute.
1481. Actions on claims.
1482. Time of limitation.
Sec.
1483. Action pending at decedent's death.
1484. Allowance in part.
1485. Effect of judgment against executor.
1486. Judgment against decedent.
1487. Disputed claim may be referred to referee.
1488. Trial by referee, how confirmed, and its effect.
1489. Liability of executor, etc., for costs.
1490. Executor's claim.
1491. Executor neglecting to give notice to creditors, to be removed.
1492. Statement of claims against estate.
1493. Payment of debts bearing interest.
1494. When claimant cannot be found; deposit with collector.

Section 1471. Notice to creditors of decedents' estates.—Every executor or administrator must, immediately after his letters are issued, cause to be published in some newspaper of general circulation in the Canal Zone, a notice to the creditors of the decedent, requiring all persons having claims against said decedent to file them, with the necessary vouchers, in the office of the clerk of the court, or to exhibit them, with the necessary vouchers, to the executor or administrator, at the place of his residence or business to be specified in the notice. Such notice must be published not less than once a week for four weeks. In case such executor or administrator resigns, or is removed, before the time expressed in the notice, his successor must give notice only for the unexpired time allowed for such filing or presentation: *Provided*, *however*, That the publication may, in the discretion of the court, be dispensed with, in which event the court may direct notice by posting in three public places in the Canal Zone for a period of four weeks.

CROSS-REFERENCE

Publication of notice, how often, see section 1682 of this title.
Removal of executor neglecting to give notice, see section 1491 of this title.

1472. Time expressed in the notice.—The time expressed in the notice must be ten months after its first publication, when the estate exceeds in value the sum of $10,000, and four months when it does not.

1473. Filing copy of printed notice to creditors.—Within thirty days after the first publication of notice to creditors, the executor or administrator must file or cause to be filed in the court a copy of said notice to creditors accompanied by a statement, setting forth the date of the first publication thereof and the name of the newspaper in which the same is printed, or the dates and places of posting, if the posting of notices be directed.

1474. Recording decree of notice to creditors.—After the notice is given, as required by section 1471 of this title, a copy thereof, with the affidavit of due publication or posting, must be filed and upon such affidavit or other testimony to the satisfaction of the court, an order or decree showing that due notice to creditors has been given, and directing that such order or decree be entered in the minutes, must be made by the court.

CROSS-REFERENCE

Affidavit of publication of notice, see sections 2072 and 2073 of this title.

1475. Claims not filed are barred.—All claims arising upon contracts, whether the same be due, not due, or contingent, and all claims for funeral expenses and expenses of the last sickness must be filed or presented within a time limited in the notice, and any claim not so filed or presented is barred forever: *Provided*, *however*, That when it is made to appear by the affidavit of the claimant to the satisfaction of the court, or judge, that the claimant had no notice as provided in this chapter, by reason of being out of the Canal Zone, it may be filed or presented at any time before a decree of distribution is entered.

A brief description of every claim filed must be entered by the clerk in the register, showing the name of the claimant, the amount and character of the claim, the rate of interest, if any, and the date of filing.

CROSS-REFERENCES

Action, none unless claim presented, see section 1481 of this title.
Action pending at decedent's death, see section 1483 of this title.
Contingent claims, see section 1596 of this title.
Executor's claim, see section 1490 of this title.
Judgment against decedent, see section 1486 of this title.
Action on mortgage or lien, see section 1481 of this title.
Claims barred by statute of limitations, see section 1480 of this title.
Time of limitation, see section 1482 of this title.

1476. Claims must be sworn to.—Every claim which is due, when filed with the clerk, or presented to the executor or administrator, must be supported by the affidavit of the claimant, or someone in his behalf, that the amount is justly due, that no payments have been made thereon which are not credited, and that there are no offsets to the same, to the knowledge of the affiant. If the claim be not due when filed or presented, or be contingent, the particulars of such claim must be stated. When the affidavit is made by a person other than the claimant, he must set forth in the affidavit the reason why it is not made by the claimant. The oath may be taken before any officer authorized to administer oaths.

The executor or administrator may also require satisfactory vouchers or proofs to be produced in support of the claim.

No greater rate of interest shall be allowed upon any claim after its approval by the administrator or executor and judge than is allowed on judgments obtained in the district court.

CROSS-REFERENCES

Claim paid without affidavit and allowance, when allowed executor, see section 1578 of this title.

Interest on claims, see sections 1493 and 1591 of this title.

1477. Claims to be allowed or rejected.—When a claim, accompanied by the affidavit required in this chapter, has been filed with the clerk, the executor or administrator must allow or reject it, and his allowance or rejection thereof must be in writing and filed with the clerk. If the executor or administrator so allow the claim after filing, the clerk must, immediately after the filing of such allowance, present the claim, together with the allowance, to the judge, and must at the time of such presentation indorse on the claim the date thereof. The judge must indorse upon the claim so filed his allowance or rejection, with the date thereof. When a claim, accompanied by the affidavit required in this chapter, is presented to the executor or administrator before filing, he must indorse thereon his allowance or rejection, with the day and date thereof. If he allows the claim so presented, it must be presented to the judge for his approval, who must in the same manner indorse upon it his allowance or rejection, and, if allowed, it must, within thirty days thereafter, be filed with the clerk.

REFUSAL OR NEGLECT OF EXECUTOR TO ALLOW OR REJECT CLAIM.—If, where a claim has been filed without presentation, the executor or administrator refuse or neglect to file such allowance or rejection for ten days after the claim has been filed, or if, where a claim has been presented before filing, the executor or administrator refuse or neglect to indorse such allowance or rejection for ten days after the claim has been presented to him, or if the judge refuse or neglect to indorse such allowance or rejection for ten days after the claim has been presented to him, such refusal or neglect may, at the option of the claimant, be deemed equivalent to a rejection on the tenth day; and if the presentation be made before filing by a notary, the certificate of such notary, under seal, shall be prima facie evidence of such presentation and the date thereof.

ACTING ON CLAIM AFTER EXPIRATION OF TIME TO PRESENT.—If the claim be filed with the clerk, or presented to the executor or administrator, before the expiration of the time limited for the filing or presentation of claims, the same is filed or presented in time, though acted upon by the executor or administrator, and by the judge, after the expiration of such time.

CLAIM PAYABLE IN PARTICULAR KIND OF MONEY.—If the claim is payable in a particular kind of money or currency, it shall, if allowed, be payable only in such money or currency.

EFFECT OF ALLOWANCE.—Every claim allowed by the executor or administrator and approved by the judge shall be ranked among the acknowledged debts of the estate, to be paid in due course of administration.

ENTRY OF DATE OF ALLOWANCE.—The dates of allowance of every such claim, together with the amount allowed, must be entered in the register by the clerk after the allowance thereof by the judge.

CROSS-REFERENCES

Payment of claims pro rata where estate insolvent, see section 1596 of this title.

Judge may approve claims in chambers, see section 27 of this title.

Debts payable in particular kind of money, see sections 1370 and 1591 of this title.

1478. Original instrument need not be filed with claim.—If the claim be founded on a bond, bill, note, or any other instrument, the original need not be filed or presented, but a verified copy of such instrument with all indorsements must be attached to the statement of the claim and filed therewith, and the original instrument must be exhibited, if demanded by the executor or administrator or judge, unless it be lost or destroyed, in which case the claimant must accompany his claim when filed or presented by his affidavit, containing a copy or particular description of such instrument, and stating its loss or destruction.

If the claim, or any part thereof, be secured by a mortgage or other lien which has been recorded in the office of the registrar of property, it shall be sufficient to describe the mortgage or lien, and refer to the date, volume, and page of its record.

If, in any case, the claimant has left any original voucher in the hands of the executor or administrator, or suffered the same to be filed with the clerk, he may withdraw the same, when a copy thereof has been already, or is then, attached to his claim.

1479. Rejection of claim against estates.—When a claim is rejected either by the executor or administrator, or the judge, written notice of such rejection shall be given by the executor or administrator to the holder of such claim or to the person filing or presenting the same, and the holder must bring suit in the proper court against the executor or administrator within three months after the date of service of such notice if the claim be then due or within two months after it becomes due, otherwise the claim shall be forever barred.

If the residence of the claimant is not known, and the same shall be made to appear to the satisfaction of the court, the court shall by its order require the notice to be served on the claimant by filing with the clerk.

CROSS-REFERENCES

Time for bringing suit, see section 1482 of this title.

Statute of limitations, generally, see sections 82 to 113 of this title.

Time for bringing action after death, see section 104 of this title.

1480. Claims barred by statute.—No claim must be allowed by the executor or administrator, or by the district judge, which is barred by the statute of limitations. When a claim is presented to the judge for his allowance, he may, in his discretion, examine the claimant and others, on oath, and hear any legal evidence touching the validity of the claim.

Allowed claims not affected by statute of limitations.—No claim against any estate which has been filed and allowed, or presented and allowed, is affected by the statute of limitations, pending the proceedings for the settlement of the estate.

Cross-References

Vacancy in administration, statute of limitations does not run, see section 1482 of this title.

Statute of limitations, see sections 81 et seq., of this title.

1481. Actions on claims.—No holder of any claim against an estate shall maintain any action thereon, unless the claim is first filed with the clerk, or presented to the executor or administrator, except in the following case: An action may be brought by any holder of a mortgage or lien to enforce the same against the property of the estate subject thereto, where all recourse against any other property of the estate is expressly waived in the complaint, but no counsel fees shall be recovered in such action unless such claim be so filed or presented.

1482. Time of limitation.—The time during which there shall be a vacancy in the administration must not be included in any limitations herein prescribed.

Cross-Reference

Allowed claims not affected by statute of limitations, see section 1480 of this title.

1483. Action pending at decedent's death.—If an action is pending against the decedent at the time of his death, the plaintiff must in like manner file his claim with the clerk, or present it to the executor or administrator for allowance or rejection, authenticated as required in other cases; and no recovery shall be had in the action unless proof be made of such filing or presentation.

Cross-Reference

Effect of judgment against executor, see section 1485 of this title.

1484. Allowance in part.—Whenever the executor or administrator or the judge shall act upon any claim that may be filed with the clerk, or presented to the executor or administrator, and is willing to allow the same in part, he must state in his allowance the amount he is willing to allow. If the creditor refuse to accept the amount allowed in satisfaction of his claim, he shall recover no costs in any action therefor brought against the executor or administrator, unless he recover a greater amount than that offered to be allowed.

1485. Effect of judgment against executor.—A judgment rendered against an executor or administrator, upon any claim for money against the estate of his testator or intestate, only establishes the claim in the same manner as if it had been allowed by the executor or administrator and the judge; and the judgment must be that the executor or administrator pay, in due course of administration, the amount ascertained to be due. A certified transcript of the original docket of the judgment must be filed among the papers of the estate in court. No execution must issue upon such judgment, nor shall it create any lien upon the property of the estate, or give to the judgment creditor any priority of payment.

CROSS-REFERENCE

Order of payment of claims and judgments, see sections 1591 to 1593 of this title.

1486. Judgment against decedent.—When any judgment has been rendered for or against the testator or intestate in his lifetime, no execution shall issue thereon after his death, except as provided in section 587 of this title. A judgment against the decedent for the recovery of money must be filed with the clerk, or presented to the executor or administrator, like any other claim. If execution is actually levied upon any property of the decedent before his death, the same may be sold for the satisfaction thereof; and the officer making the sale must account to the executor or administrator for any surplus in his hands. A judgment creditor having a judgment which was rendered against the testator or intestate in his lifetime, may redeem any real estate of the decedent from any sale under foreclosure, or execution, in like manner and with like effect as if the judgment debtor were still living.

1487. Disputed claim may be referred to referee.—If the executor or administrator doubts the correctness of any claim presented to him or filed with the clerk, he may enter into an agreement in writing with the claimant to refer the matter in controversy to some disinterested person, to be approved by the court or judge. Upon filing the agreement and approval of such court or judge, in the office of the clerk of the court, the clerk must enter a minute of the order referring the matter in controversy to the person so selected, or, if the parties consent, a reference may be had in the court; and the report of the referee, if confirmed, establishes or rejects the claim the same as if it had been allowed or rejected by the executor or administrator and judge.

1488. Trial by referee, how confirmed, and its effect.—The referee must hear and determine the matter, and make his report thereon to the court in which his appointment is entered. The same proceedings shall be had in all respects, and the referee shall have the same powers, be entitled to the same compensation and subject to the same control, as in other cases of reference. The court may remove the referee, appoint another in his place, set aside or confirm his report and adjudge costs, as in actions against executors or administrators, and the judgment of the court thereon shall be as valid and effectual, in all respects, as if the same had been rendered in a suit commenced by ordinary process.

CROSS-REFERENCES

Reference, see sections 511 to 517 of this title.
Fees of referees, see sections 990 and 1582 of this title.

1489. Liability of executor, etc., for costs.—When a judgment is recovered, with costs, against any executor or administrator, he shall be individually liable for such costs, but they must be allowed him in his administration accounts, unless it appears that the suit or proceeding in which the costs were taxed was prosecuted or defended without just cause.

1490. Executor's claim.—If the executor or administrator is a creditor of the decedent, his claim duly authenticated by affidavit shall be filed with the clerk, and must be presented by the clerk for allowance or rejection to the judge, who shall allow or reject it, and its allowance by the judge is sufficient evidence of its correctness, and it must be paid as other claims in due course of administration. If, however, the judge reject the claim, action thereon may be had against the estate by the claimant, and summons must be served upon the judge, who may appoint an attorney, at the expense of the estate, to defend the action. If the claimant recover no judgment, he must pay all costs, including defendant's reasonable attorney's fees, to be fixed by the court.

CROSS-REFERENCE

Claim, see section 1475 of this title.

1491. Executor neglecting to give notice to creditors, to be removed.—If an executor or administrator neglects for two months after his appointment to give notice to creditors, as prescribed by this chapter, the court must revoke his letters, and appoint some other person in his stead, equally or the next in order entitled to the appointment.

CROSS-REFERENCE

Failure to give notice, creditor may recover on bond, see section 1598 of this title.

1492. Statement of claims against estate.—At the same time at which he is required to return an inventory, the executor or administrator must also return a statement of all claims against the estate which have been filed with the clerk, or presented to the executor or administrator, if so required by the court, or judge, and from time to time thereafter he must present a statement of claims subsequently so filed or presented, if so required by the court or judge. In all such statements he must designate the names of the creditors, the nature of each claim, when it became due, or will become due, and whether it was allowed or rejected by him, or not yet acted upon.

1493. Payment of debts bearing interest.—If there be any debt of the decedent bearing interest, whether filed or not, or whether presented or not, the executor or administrator may, by order of the court, pay the amount then accumulated and unpaid, or any part thereof, at any time when there are sufficient funds properly applicable thereto, whether said claim be then due or not; and interest shall thereupon cease to accrue upon the amount so paid.

CROSS-REFERENCES

Payment of debts of estate, generally, see sections 1591 et seq., of this title.
Interest on claims, see sections 1476 and 1591 of this title.

1494. When claimant cannot be found; deposit with collector.—Whenever any claim has been filed or presented and shall have been approved by the executor or administrator and by the judge, but the same has not been paid, and the estate is in all other respects ready to be closed, if it be made to appear to the satisfaction of the court or judge, by affidavit, or by testimony, taken in open court, that the same cannot be, and has not been, paid because the claimant cannot be found, the court or judge shall make an order fixing the amount of said claim, with interest, if any, and directing the executor or administrator to deposit the amount with the collector of the Panama Canal, who shall give a receipt for the same, and who shall be liable upon his official bond therefor. Such executor or administrator shall at once make the deposit in accordance with such order of court and shall forthwith proceed to close up and settle such estate. Upon the final settlement of his accounts, the receipt of such collector shall be received as a proper voucher for the payment of such claim, and shall have the same force and effect as if executed by such claimant.

Any person claiming to be entitled to any amount so deposited with the collector, may, within five years after such deposit, petition the court or judge for an order directing payment to the said claimant. A copy of such petition shall be served on the collector and thereafter no such amount shall be covered into the Treasury of the United States, as hereinafter directed, until so ordered by the court.

If no one claims the amount, as herein provided, or if a claim be made and disallowed and the court so directs, such amount devolves to the United States and shall be covered into the Treasury by the collector as miscellaneous receipts.

CHAPTER 29.—SALES AND CONVEYANCES OF PROPERTY OF DECEDENTS

Sec.
1501. Estate chargeable with debts; no priority.
1502. Confirmation of sales.
1503. Perishable and depreciating property to be sold.
1504. Sale of personal property by executor or administrator.
1505. Partnership interests and choses in action, how sold.
1506. Order of sales.
1507. Sale at public auction or private sale.
1508. Executor and guardian may borrow on chattel mortgage.
1509. When executor or administrator may sell real property.
1510. Power of executor or guardian to borrow money upon unsecured notes.

Section 1501. Estate chargeable with debts; no priority.—All the property of a decedent shall be chargeable with the payment of the debts of the deceased, the expenses of administration, and the allowance to the family, except as otherwise provided in this title and in Title 3, The Civil Code. And the said property, personal and real, may be sold in the manner prescribed in this chapter. There shall be no priority as between personal and real property for the purposes of this section.

CROSS-REFERENCES

Order of appropriation of property for debts, see title 3, section 612.
Sale of property specifically bequeathed, see title 3, section 616.

1502. Confirmation of sales.—All sales of property must be reported under oath to and confirmed by the court, before the title to the property passes.

1503. Perishable and depreciating property to be sold.—At any time after receiving letters, the executor, administrator, or special administrator may sell perishable and other personal property likely to depreciate in value, or which will incur loss or expense by being kept, and so much other personal property as may be necessary to pay the allowance made to the family of the decedent. The executor, administrator, or special administrator is responsible for the property unless, after making a sworn return, and on a proper showing, the court shall approve the sale.

CROSS-REFERENCE

Order for sale, see section 1506 of this title.

1504. Sale of personal property by executor or administrator.—If claims against the estate have been allowed, and a sale of property is necessary for their payment, or for the expenses of administration, or for the payment of legacies, the executor or administrator may sell all or so much of the personal property as may be necessary therefor. He may also make a sale from time to time, so long as any personal property remains in his hands, and sale thereof is necessary. If it appear for the best interests of the estate, he may, at any time after filing the inventory, in like manner sell the whole or any part of the personal property belonging to the estate, whether necessary to pay debts or not. Such sale to take effect only upon confirmation by the court.

1505. Partnership interests and choses in action, how sold.—Partnership interests or interests belonging to any estate by virtue of any partnership formerly existing, interest in personal property pledged, and choses in action, may be sold in the same manner as other personal property, when it appears to be for the best interest of the estate. Before confirming the sale of any partnership interest, whether made to the surviving partner or to any other person, the court or judge must carefully inquire into the condition of the partnership affairs, and must examine the surviving partner, if in the Canal Zone and able to be present in court.

CROSS-REFERENCE

Partnership interest, see section 1525 of this title.

1506. Order of sales.—In making orders and sales for the payment of debts or family allowance, such articles as are not necessary for the support and subsistence of the family of the decedent, or are not specially bequeathed, must be first sold.

1507. Sale at public auction or private sale.—The sale of personal property may be made at public auction or private sale, for cash, and after public notice given for at least ten days by notices posted in three public places in the Canal Zone, or by publication in a newspaper of general circulation in the Canal Zone, or both, as the executor or administrator may determine, containing the time and place of sale, and a brief description of the property to be sold, unless the property to be sold be perishable property, in which latter case at least one day's notice by posting as aforesaid shall be given. Public sales must be made at the courthouse door, or at some other public place, or at the residence of the decedent; but no sale shall be made of any personal property which is not present at the time of sale, unless the court shall otherwise order.

Cross-Reference

Notice by advertising, see section 1682 of this title.

1508. Executor and guardian may borrow on chattel mortgage.—Whenever in any estate now being administered or that may hereafter be administered or in any guardianship proceeding now pending or that may hereafter be pending it shall appear to the district court or judge to be for the advantage of the estate to borrow and raise money upon a note or notes, to be secured by chattel mortgage or other lien upon the personal property of any decedent or of a minor or an incompetent person, or any part thereof, for the purpose of paying the debts of such decedent or such minor or incompetent person, the court or judge as often as occasion therefor shall arise in the administration of any estate or in the course of any guardianship may authorize, empower, and direct the executors or administrators or guardian of such minor or incompetent person to mortgage such personal property, or any part thereof, or to give other security by way of pledge or other lien upon such personal property, or any part thereof, and to execute a note or notes, to be secured by such mortgage, pledge, or lien: *Provided*, That in order to obtain such authorization, the proceedings to be taken and the effect thereof shall be as follows:

First. Verified petition.—The executor or administrator of any estate, or guardian of any minor or incompetent person, or any person interested in the estates of such decedents, minors, or incompetent persons, may file a verified petition showing:

1. The particular purpose or purposes for which it is proposed to make the note or notes and the chattel mortgage or other lien, which shall be either to maintain the ward and his family or to maintain and educate the ward when a minor, or to pay the debts, legacies, or charges of administration, or to pay, reduce, extend, or renew some lien or mortgage already subsisting on said property or some part thereof.

2. A statement of the facts and circumstances showing the insufficiency of the income of the estate under guardianship to maintain the ward and his family or to maintain and educate the ward when a minor and the debts, legacies, charges of administration, liens, or mortgages to be paid, reduced, extended, or renewed, as the case may be.

3. The advantage that may accrue to the estate from raising the required money by note or notes and mortgage or other lien, or providing for the payment, reduction, extension, or renewal of the subsisting liens or mortgages, as the case may be.

4. The amount to be raised, with a general description of the property proposed to be mortgaged; and,

5. The names of the legatees and the devisees, if any, and of the heirs of the deceased, or of the minor, or of the incompetent person, as the case may be, so far as known to the petitioner.

Second. Upon filing such petition, an order shall be made by the court or judge, requiring all persons interested in the estate to appear before the court or judge, at a time and place specified, not less than four nor more than ten weeks thereafter, then and there to show cause why the property (briefly indicating it), or some part thereof, should not be hypothecated for the amount mentioned in the petition (stating such amount), or such lesser amount as to the court or judge shall seem meet, and referring to the petition on file for further particulars.

Third. The order to show cause may be personally served on the persons interested in the estate, at least ten days before the time appointed for hearing the petition, or may be published for four successive weeks in a newspaper of general circulation in the Canal Zone.

Fourth. PROCEEDINGS UPON HEARING.—Upon the hearing of the order to show cause, having first received satisfactory proof of personal service or publication of the order to show cause, the court or judge must proceed to hear the petition and any objections that may be filed or presented thereto. Upon such hearing, witnesses may be compelled to attend and testify, in the same manner, and with like effect, as in other cases; and if, after a full hearing, the court or judge is satisfied that it will be for the advantage of the estate to hypothecate the whole or any portion of the property, an order must be made authorizing, empowering, and directing the executor or administrator, or the guardian of such minor or incompetent person, to make such mortgage, pledge, or other lien, and a promissory note or notes to the lender, for the amount of the loan, to be secured by said mortgage or other lien.

WHAT ORDER MAY PRESCRIBE.—The order may direct that a lesser amount than that named in the petition be borrowed, and may prescribe the maximum rate of interest and period of the loan, and may direct in what coin or currency it shall be paid, and require that the interest and the whole or any part of the principal be paid, from time to time, out of the whole estate or any part thereof.

Fifth. EXECUTION OF NOTE AND MORTGAGE.—After the making of the order to mortgage, the executor, administrator, or guardian of a minor or of an incompetent person shall execute and deliver a promissory note or notes for the amount and period specified in the order, and shall execute a mortgage, pledge, or other lien setting forth therein that it is made by authority of the order, and giving the date of such order. The note or notes and mortgage or other lien shall be signed by the executor, administrator, or guardian as such, and shall create no personal liability against the person so signing.

Sixth. Every note or notes and mortgage or other lien so made shall be effectual to mortgage and hypothecate all the right, title, and interest which the decedent, minor, or incompetent person has in the property described therein.

No irregularity in the proceedings shall impair or invalidate the same or the note or notes and mortgage or other lien given in the pursuance thereof, and the mortgagee, his heirs and assigns, shall have and possess the same rights and remedies on the note or notes and mortgage or other lien as if it had been made by the decedent prior to his death, the minor after reaching the age of maturity, or the incompetent person when legally competent.

Deficiency on foreclosure.—*Provided*, *however*, That upon any foreclosure, if the proceeds of the encumbered property are insufficient to pay the note or notes, and mortgage, or other lien, no judgment or claim for any deficiency of such proceeds to satisfy the note or notes and mortgage, or the costs or expenses of sale, shall be had or allowed, except in cases where the note or notes and mortgage were given to pay, reduce, extend, or renew a lien or mortgage subsisting on the property, or some part thereof, at the time of the death of the decedent, and the indebtedness secured by such lien or mortgage was an allowed and approved claim against his estate, or a lien upon the interest of the minor in said property at the time it vested in him, or upon the estate of the incompetent at the time the incompetency of the incompetent person was so declared by the court: *And provided also*, That in cases affecting the estate of the deceased persons, the part of the indebtedness remaining unsatisfied must be classed and paid with other demands against the estate, as provided in sections 1591 to 1601 of this title, with respect to mortgages and other liens subsisting at the time of death.

1509. When executor or adminstrator may sell real property.—When it is for the advantage, benefit, and best interests of the estate, and those interested therein, that the real estate, or some part thereof, or interest therein be sold, the executor or administrator may sell the same under such terms, conditions, and in the manner prescribed by the court.

Cross-Reference

Sale of realty authorized, see section 1501 of this title.

1510. Power of executor or guardian to borrow money upon unsecured notes.—Whenever in any estate now being administered or that may hereafter be administered, or in any guardianship proceeding now pending, or that may hereafter be pending, it shall appear to the court or judge having jurisdiction of said estate, or said minor or incompetent person, to be for the advantage, benefit, or best interest of the estate of said minor or incompetent person, to borrow money upon a note or notes, without being secured, the court or judge, as often as occasion therefor shall arise in the administration of any estate, or in the course of any guardianship, may upon petition and notice of hearing, as provided in this section, authorize, empower, and direct the executor or administrator or guardian of such minor or incompetent person, to execute a note or notes, without security.

The proceeding to be taken to obtain an order to borrow said money and execute said note or notes shall be as follows:

First. The executor, or administrator of any estate, or guardian of any minor or incompetent person must file a verified petition showing,

(a) The particular purpose or purposes for which it is proposed to borrow said money, and the purpose or purposes for which it is to be used.

(b) The advantage or advantages that may accrue to said estate from borrowing said money and executing said note or notes.

(c) The amount of money to be borrowed, the rate of interest to be paid, and the length of time said note or notes are to run.

Second. Upon filing such petition, the clerk of the court shall fix a day for hearing the same by the court.

Third. The petitioner shall cause notice of the hearing to be mailed, postage prepaid, to the heirs at law of said decedent, and to the devisees and legatees resident in the Canal Zone, and to the nearest relatives of said minor or incompetent person, resident in the Canal Zone, at least ten days before the hearing, addressed to them at their respective post-office addresses, if known. Otherwise, at the place where the proceedings are pending.

Fourth. At the time and place appointed for said hearing, or at such other time and place to which the hearing may be postponed by the court, the court must proceed to hear the petition, and any objections that may be filed or presented thereto, and, if, after a full hearing, the court is satisfied that it will be for the advantage, benefit, or best interest of the estate of said decedent, or of said minor or incompetent person, to borrow said money, and execute said note or notes, without security, an order must be made, authorizing, empowering, and directing the executor, or administrator, or the guardian of such minor or incompetent person to borrow said money, and to make and execute said note or notes, without security, specifying in said order the amount that may be borrowed, the rate of interest that is to be paid, and the length of time that said note or notes are to run.

Fifth. After the making of the order to borrow said money and execute said note or notes, the executor, administrator, or guardian of the minor or incompetent person, shall execute and deliver a promissory note or notes, without security, for the amount, at the rate of interest, and for the period prescribed in said order, and said note or notes shall be signed by the executor, or administrator or guardian, as such, and shall create no personal liability against the person so signing.

Sixth. Any note or notes so signed and executed, shall be effectual to create a valid obligation and debt against said estate, or said minor or incompetent person, and shall be payable out of the funds of said estate, and said note or notes shall specify that it is made by authority of such order, giving the date thereof.

CHAPTER 30.—POWERS AND DUTIES OF EXECUTORS AND ADMINISTRATORS, AND MANAGEMENT OF ESTATES

Sec.
1521. Executor to take possession of the entire estate.
1522. Actions may be maintained by and against executors and administrators.
1523. May maintain actions for waste, conversion, and trespass.
1524. Executor and administrator may be sued for waste or trespass of decedent.
1525. Surviving partner to settle up business; interest therein to be appraised; account to be rendered.
1526. Actions on bond of executor or administrator may be brought by another administrator.

Sec.
1527. What executors are not parties to actions.
1528. May compound.
1529. Recovery of property fraudulently disposed of by testator.
1530. When executor to sue, as provided in preceding section.
1531. Disposition of estate recovered.
1532. Court may order funds deposited.
1533. Investment of moneys of estate pending settlement.

Section 1521. Executor to take possession of the entire estate.—The executor or administrator must take into his possession all the estate of the decedent, real and personal, and collect all debts due to the decedent or to the estate. For the purpose of bringing suits to quiet title, or for partition of such estate, the possession of the executors or administrators is the possession of the heirs or devisees; such possession by the heirs or devisees is subject, however, to the possession of the executor or administrator, for the purposes of administration, as provided in chapters 23 to 36 of this title.

CROSS-REFERENCES

Possession of estate by executor, etc., see section 1440 of this title.
Liability for failure to collect debts, see section 1564 of this title.
Suits by and against executor, see sections 1522 to 1527 of this title.

1522. Actions may be maintained by and against executors and administrators.—Actions for the recovery of any property, real or personal, or for the possession thereof, or to quiet title thereto, or to determine any adverse claim thereon, and all actions founded upon contracts, may be maintained by and against executors and administrators in all cases in which the same might have been maintained by or against their respective testators or intestates.

CROSS-REFERENCES

Suits by executors and administrators after substitution, see section 141 of this title.
Suits without joining beneficiaries, see section 124 of this title.

1523. May maintain actions for waste, conversion, and trespass.—Executors and administrators may maintain actions against any person who has wasted, destroyed, taken, or carried away, or converted to his own use, the goods of their testator or intestate, in his lifetime. They may also maintain actions for trespass committed on the real estate of the decedent in his lifetime.

1524. Executor and administrator may be sued for waste or trespass of decedent.—Any person or his personal representatives may maintain an action against the executor or administrator of any testator or intestate who in his lifetime has wasted, destroyed, taken, or carried away, or converted to his own use, the goods or chattels of any such person, or committed any trespass on the real estate of such person.

1525. Surviving partner to settle up business; interest therein to be appraised; account to be rendered.—When a partnership exists between the decedent, at the time of his death, and any other person, the surviving partner has the right to continue in possession of the partnership, and to settle its business, but the interest of the decedent in the partnership must be included in the inventory, and be appraised as other property. The surviving partner must settle the affairs of the partnership without delay, and account with the executor or administrator, and pay over such balances as may from time to time be payable to him, in right of the decedent. Upon the application of the executor or administrator, the court, or a judge thereof, may, whenever it appears necessary, order the surviving partner to render an account, and in case of neglect or refusal may, after notice, compel it by attachment; and the executor or administrator may maintain against him any action which the decedent could have maintained.

CROSS-REFERENCE

Interest of decedent in partnership may be sold, see section 1505 of this title.

1526. Actions on bond of executor or administrator may be brought by another administrator.—An administrator may, in his own name, for the use and benefit of all parties interested in the estate, maintain actions on the bond of an executor, or of any former administrator of the same estate.

CROSS-REFERENCES

Bond of executor or administrator, see sections 1352 et seq. of this title.
Personal representative as a party, see section 124 of this title.

1527. What executors are not parties to actions.—In actions by or against executors, it is not necessary to join those as parties to whom letters were issued, but who have not qualified.

CROSS-REFERENCE

Beneficiaries need not be joined, see section 124 of this title.

1528. May compound.—Whenever a debtor of the decedent is unable to pay all his debts, the executor or administrator, with the approbation of the court or judge, may compound with him and give him a discharge, upon receiving a fair and just dividend of his effects. A compromise may also be authorized when it appears to be just, and for the best interest of the estate.

1529. Recovery of property fraudulently disposed of by testator.—When there is a deficiency of assets in the hands of an executor or administrator, and when the decedent, in his lifetime, has conveyed any real estate, or any rights or interests therein, with intent to defraud his creditors, or to avoid any right, debt, or duty of any person, or has so conveyed such estate that by law the deeds or conveyances are void as against creditors, the executor or administrator must commence and prosecute to final judgment any proper action for the recovery of the same; and may recover for the benefit of the creditor all such real estate so fraudulently conveyed; and may also, for the benefit of the creditors, sue and recover all goods, chattels, rights, or credits which have been so conveyed by the decedent in his lifetime, whatever may have been the manner of such fraudulent conveyance.

CROSS-REFERENCES

Suit without joining beneficiaries, see section 124 of this title.
Fraudulent conveyances, see sections 561 to 569, 1530 and 1531 of this title.

1530. When executor to sue, as provided in preceding section.—No executor or administrator is bound to sue for such estate, as mentioned in the next preceding section, for the benefit of the creditors, unless on application of creditors, who must pay such part of the costs and expenses of the suit, or give such security to the executor or administrator therefor, as the court or judge shall direct.

1531. Disposition of estate recovered.—All real estate so recovered must be sold for the payment of debts, in the same manner as if the decedent had died seised thereof, upon obtaining an order therefor from the court; and the proceeds of all goods, chattels, rights, and credits so recovered must be appropriated in payment of the debts of the decedent in the same manner as other property in the hands of the executor or administrator. The remainder of the proceeds, after all the debts of the decedent have been paid, must be paid to the person from whom such property was recovered.

1532. Court may order funds deposited.—The court is empowered to order any executor or administrator to deposit any or all funds of an estate, coming into his hands, in a bank or banks, or other depositary, to be designated by the court. The deposit shall be made in the name of the executor or administrator with a designation of his fiduciary capacity. The court may direct the executor or administrator to deposit any or all of such funds in an interest-bearing account: *Provided*, *however*, That nothing in this section shall be construed to relieve any executor or administrator from any duty otherwise imposed by law.

1533. Investment of moneys of estate pending settlement.—Pending the settlement of any estate, on the petition of any person interested therein, and upon good cause shown therefor, the court may order any money in the hands of the executors or administrators to be invested for the benefit of the estate in securities of the United States.

Such order can only be made after ten days' notice of the hearing of the said petition, by notice posted in three public places in the Canal Zone, or by publication in a newspaper of general circulation therein, or both, as the court or judge shall direct.

CHAPTER 31.—CONVEYANCE OF REAL ESTATE AND TRANSFER OF PERSONAL PROPERTY BY EXECUTORS AND ADMINISTRATORS IN CERTAIN CASES

Sec.
1541. Executor or administrator to complete contracts for sale of real or personal property.
1542. Petition for executor or administrator to make conveyance or transfer and notice of hearing.
1543. Interested parties may contest.
1544. Decree authorizing conveyance.
1545. Execution of conveyance or transfer, and the recording of the order therefor.
1546. Rights of petitioner to enforce the contract.
1547. Effect of conveyance or transfer.
1548. Effect of recording a copy of the decree.
1549. Recording of the decree does not supersede power of court to enforce it.
1550. Where party to whom conveyance or transfer to be made is dead.
1551. Decree may direct possession to be surrendered.

Section 1541. Executor or administrator to complete contracts for sale of real or personal property.—When a person who is bound by contract in writing to convey any real estate, or to transfer any personal property, dies before making conveyance or transfer, and in all cases when such decedent, if living, might be compelled to make such conveyance or transfer, the court having jurisdiction of the probate proceedings of the estate of such decedent, may make a decree authorizing and directing the executor or administrator of such deceased person to convey or transfer such real estate or personal property to the person entitled thereto.

CROSS-REFERENCE

Completion of contract of person becoming insane, see section 1821 of this title.

1542. Petition for executor or administrator to make conveyance or transfer and notice of hearing.—On the presentation of a verified petition by the executor or administrator, or by any person claiming to be entitled to such conveyance from an executor or administrator, setting forth the facts upon which the claim is predicated, the court or judge shall appoint a time and place for hearing the petition, and shall order notice thereof to be served on the executor or administrator personally when he is not the petitioner, and to be published at least once a week for four successive weeks before such hearing, in a newspaper of general circulation in the Canal Zone.

CROSS-REFERENCES

Verification of pleadings, see section 241 of this title.
Publication of notice, see section 1682 of this title.

1543. Interested parties may contest.—At the time and place appointed for the hearing, or at such other time to which the same may be postponed, upon satisfactory proof by affidavit or otherwise, of the due publication of the notice, the court shall proceed to hear the said petition, and all persons interested in the estate may appear and contest such petition, by filing their objections in writing, and the court may examine, on oath, the petitioner and all who may be produced before him for that purpose.

1544. Decree authorizing conveyance.—If after a full hearing upon the petition and objections and examination of the facts and circumstances of the claim, the court is satisfied that the conveyance of the real estate described in the petition to the party entitled thereto should be made, a decree authorizing and directing the executor or administrator to execute a conveyance thereof to the party entitled thereto must be made.

1545. Execution of conveyance or transfer, and the recording of the order therefor.—The executor or administrator must execute the conveyance or transfer according to the directions contained in the decree, which decree shall be prima facie evidence of the correctness of the proceedings, and of the authority of the executor or administrator to make the conveyance or transfer.

1546. Rights of petitioner to enforce the contract.—If upon the hearing, as hereinbefore provided, the right of the petitioner to have a specific performance of the contract is found to be doubtful, the court must dismiss the petition without prejudice to the rights of the petitioner, who may, at any time within six months after such dismissal, proceed by action to enforce a specific performance thereof.

1547. Effect of conveyance or transfer.—Every conveyance or transfer made in pursuance of a decree as provided in this chapter, shall pass title to the property contracted for, as fully as if the contracting party himself was still living, and executed the conveyance or transfer.

1548. Effect of recording a copy of the decree.—A copy of the decree for a conveyance or transfer as provided in this chapter, duly certified and recorded in the office of the registrar of property, gives the person entitled to the conveyance or transfer a right to the possession of the property contracted for, and to hold the same according to the terms of the intended conveyance or transfer, in like manner as if the same had been conveyed or transferred in pursuance of the decree.

1549. Recording of the degree does not supersede power of court to enforce it.—The recording of any decree, as provided in the next preceding section shall not prevent the court making the decree from enforcing the same by other process.

1550. Where party to whom conveyance or transfer to be made is dead.—If the person entitled to the conveyance or transfer dies before the commencement of the proceedings therefor under this chapter, or before the completion of the conveyance or transfer, any person entitled to succeed to his rights in the contract, or the executor or administrator of such decedent, may, for the benefit of the person so entitled, commence such proceedings or prosecute any already commenced, and the conveyance or transfer must be so made as to vest the property in the person or persons entitled thereto, or in the executor or administrator, for their benefit.

1551. Decree may direct possession to be surrendered.—The decree provided for in this chapter may direct the possession of the property therein described to be surrendered to the person entitled thereto, upon his producing a certified copy of the decree, when, by the terms of the contract, possession is to be surrendered.

CHAPTER 32.—ACCOUNTS RENDERED BY EXECUTORS AND ADMINISTRATORS, AND PAYMENT OF DEBTS

Art.	Sec.
1. Liabilities and compensation of executors and administrators	1561
2. Accounting and settlements by executors and administrators	1571
3. Payment of debts of estate	1591

ARTICLE 1.—LIABILITIES AND COMPENSATION OF EXECUTORS AND ADMINISTRATORS

Sec.
1561. When executor or administrator personally liable.
1562. Executor to be charged with all estate, etc.
1563. Not to profit or lose by estate.
1564. Uncollected debts without fault.
1565. Expenses of executors.
1566. Not to purchase claims against the estate.
1567. Executors and administrators; commissions allowed to.
1568. Allowed fees for attorneys; extraordinary services.

Section 1561. When executor or administrator personally liable.—No executor or administrator is chargeable upon any special promise to answer in damages or to pay the debts of the testator or intestate out of his own estate, unless the agreement for that purpose, or some memorandum or note thereof, is in writing and signed by such executor or administrator, or by some other person by him thereunto specially authorized in writing.

CROSS-REFERENCE

Personal liability of executor, see section 1597 of this title.

1562. Executor to be charged with all estate, etc.—Every executor and administrator is chargeable in his account with the whole of the estate of the decedent which may come into his possession at the value of the appraisement contained in the inventory, except as provided in the following sections, and with all the interest, profit, and income of the estate.

1563. Not to profit or lose by estate.—He shall not make profit by the increase, nor suffer loss by the decrease, or destruction, without his fault, of any part of the estate. He must account for the excess when he sells any part of the estate for more than the appraisement, and if any is sold for less than the appraisement, he is not responsible for the loss, if the sale has been justly made.

1564. Uncollected debts without fault.—No executor or administrator is accountable for any debts due to the decedent, if it appears that they remain uncollected without his fault.

1565. Expenses of executors.—The executor or administrator shall be allowed all necessary expenses in the care, management, and settlement of the estate, and for his services such fees as provided by this chapter; but when the decedent, by his will, makes some other provision for the compensation of his executor, that shall be a full compensation for his services, unless by a written instrument, filed in the court, he renounces all claim for compensation provided for in the will.

ALLOWANCE UPON COMMISSIONS.—At any time during the administration any executor or administrator, may, upon such notice to the other parties interested in the estate as the court shall by order require, apply to the court for an allowance to himself upon his commissions, and the court shall on the hearing of such application make an order allowing such executor or administrator such portion of his commissions as to the court shall seem proper, and the portion so allowed may be thereupon charged against the estate.

ALLOWANCE TO ATTORNEY UPON FEE.—Any attorney who has rendered services to an executor or administrator may at any time during the administration, and upon such notice to the other parties interested in the estate as the court shall by order require, apply to the court for an allowance to himself, of compensation therefor, and the court shall on the hearing of such application make an order requiring the executor or administrator to pay such attorney out of the estate such compensation on account of services rendered by such attorney up to the date of such order as to the court shall seem proper, and such payment shall be forthwith made.

CROSS-REFERENCES

Compensation for services, see section 1567 of this title.
Costs, see section 1489 of this title.

1566. Not to purchase claims against the estate.—No administrator or executor shall purchase any claim against the estate he represents; and if he pays any claim for less than its nominal value he is only entitled to charge in his account the amount he actually paid.

1567. Executors and administrators; commissions allowed to.—When no compensation is provided by the will, or the executor renounces all claim thereto, he must be allowed commissions upon the amount of estate accounted for by him, as follows: for the first $1,000, at the rate of 7 percent; for the next $9,000, at the rate of 4 percent; for the next $10,000, at the rate of 3 percent; for the next $30,000, at the rate of 2 percent; for the next $50,000, at the rate of 1 percent; and for all above $100,000, at the rate of one half of 1 percent. If there are two or more executors the compensation shall be apportioned among them by the court according to the services actually rendered by them respectively. The same commissions shall be allowed to administrators. In all cases, such further allowance may be made as the court may deem just and reasonable for any extraordinary service, but the total amount of such extra allowance must not exceed one half of the amount of commissions allowed by this section. Where the property of the estate is distributed in kind, and involves no labor beyond the custody and distribution of the same, the commission shall be computed on all the estate above the value of $20,000, at one half of the rates fixed in this section. Public administrators shall, subject to the provisions of section 1715 of this title, receive the same compensation and allowances as are allowed in this title to other administrators. All contracts between an executor or administrator and an heir, devisee, or legatee, for a higher compensation than that allowed by this section, shall be void. When the executor or administrator is an attorney he shall not be allowed to charge against the estate any professional fees, as such, for services rendered by himself.

1568. Allowed fees for attorneys; extraordinary services.—Attorneys for executors and administrators shall be allowed out of the estate as fees for conducting the ordinary probate proceedings such reasonable sum as the court may allow which shall be not in excess of such amounts as are allowed by the next preceding section as compensation for executors and administrators for their own services. In all cases such further allowance may be made as the court may deem just and reasonable for any extraordinary services such as sales or mortgages of real estate, contested or litigated claims against the estate, litigation in regard to the property of the estate, and such other litigation as may be necessary for the executor or administrator to prosecute or defend.

ARTICLE 2.—ACCOUNTING AND SETTLEMENTS BY EXECUTORS AND ADMINISTRATORS

Sec.
1571. Executor's exhibit of money received, etc.
1572. Objections to account, who may file.
1573. Attachment for not obeying citation.
1574. Executor's report.
1575. Executor to account after his authority revoked.
1576. Revoking authority of executor, when.
1577. To produce and file vouchers, which remain in court.
1578. Expenditures less than $20 may be allowed executors without vouchers.
1579. Day of settlement to be appointed; clerk must give notice thereof; hearing on settlement.
1580. When settlement is final, notice must so state.
1581. Interested party may file exceptions to account.
1582. All matters may be contested by the heirs; hearing may be postponed.
1583. Settlement of accounts to be conclusive, when and when not.
1584. Proof of notice of settlement of accounts.
1585. Deceased executor's or guardian's accounts.

1571. Executor's exhibit of money received, etc.—When required by the court, either upon its own motion or upon the application of any person interested in the estate, the executor or administrator must render an exhibit under oath, showing the amount of money received and expended by him, the amount of all claims filed or presented against the estate, and the names of the claimants, and all other matters necessary to show the condition of its affairs.

CROSS-REFERENCE

Report and accounting by executor, see section 1574 of this title.

1572. Objections to account, who may file.—When an exhibit is rendered by an executor or administrator, any person interested may appear and, by objections in writing, contest any account or statement therein contained. The court may examine the executor or administrator, and if he has been guilty of neglect, or has wasted, embezzled, or mismanaged the estate, his letters must be revoked.

CROSS-REFERENCES

Any person interested, see section 1581 of this title.
Revocation for misconduct, see sections 1411 et seq., of this title.

1573. Attachment for not obeying citation.—If any executor or administrator neglects or refuses to appear and render an exhibit, after having been duly cited, an attachment may be issued against him and such exhibit enforced, or his letters may be revoked, in the discretion of the court.

CROSS-REFERENCES

Contempt, see section 1163 of this title.
Attachment of executor, see sections 1574 and 1576 of this title.

1574. Executor's report.—Within thirty days after the expiration of the time mentioned in the notice to creditors within which claims must be filed or exhibited every executor or administrator must render a full account and report of his administration. If he fails to present his account the court or judge must compel the rendering of the account by attachments, and any person interested in the estate may apply for and obtain an attachment; but no attachment must issue unless a citation has been first issued, served, and returned, requiring the executor or administrator to appear and show cause why an attachment should not issue. Every account must exhibit all debts which have been filed and allowed during the period embraced in the account.

CROSS-REFERENCES

Account of administration, final, see sections 1595 and 1600 of this title.
Judge may receive at chambers, see section 27 of this title.
Exhibit of condition of estate, see section 1571 of this title.

1575. Executor to account after his authority revoked.—When the authority of an executor or administrator ceases, or is revoked for any reason, he may be cited to account before the court, at the instance of the person succeeding to the administration of the same estate, in like manner as he might have been cited by any person interested in the estate during the time he was executor or administrator.

CROSS-REFERENCE

Account after authority ended, see section 1391 of this title.

1576. Revoking authority of executor, when.—If the executor or administrator resides out of the Canal Zone, or absconds, or conceals himself, so that the citation cannot be personally served, and neglects to render an account within thirty days after the time prescribed in this article, or if he neglects to render an account within thirty days after being committed where the attachment has been executed, his letters must be revoked.

CROSS-REFERENCES

Compare section 1414 of this title.
Attachment of executor, see sections 1573 and 1574 of this title.

1577. To produce and file vouchers, which remain in court.—In rendering his account, the executor or administrator must produce and file vouchers for all charges, debts, claims, and expenses which he has paid, which must remain in the court; and he may be examined on oath touching such payments, and also touching any property and effects of the decedent, and the disposition thereof. When any voucher is required for other purposes, it may be withdrawn on leaving a certified copy on file; if a voucher is lost, or for other good reason cannot be produced on the settlement, the payment may be proved by the oath of any competent witness.

CROSS-REFERENCE

Vouchers required of claimant, see section 1476 of this title.

1578. Expenditures less than $20 may be allowed executors without vouchers.—On the settlement of his account he may be allowed any item of expenditure not exceeding $20, for which no voucher is produced, if such item be supported by his own uncontradicted oath positive to the fact of payment, specifying when, where, and to whom it was made; but such allowances in the whole must not exceed $500 against any one estate.

LOST OR DESTROYED VOUCHERS.—If it appears by the oath to the account and is proven by competent evidence to the satisfaction of the court, that a voucher for any disbursement or disbursements whatsoever has been lost or destroyed, and that it is impossible to obtain a duplicate thereof, and that such item or items were paid in good faith and for the best interests of the estate, and such item or items were legal charges against said estate, then the executor or administrator shall be allowed such item or items.

PAYMENTS OF DEBTS WITHOUT AFFIDAVIT AND ALLOWANCE.—If, upon such settlement of accounts, it appears that debts against the deceased have been paid without the affidavit and allowance prescribed by statute or sections 1476 and 1477 of this title, and it shall be proven by competent evidence to the satisfaction of the court that such debts were justly due, were paid in good faith, that the amount paid was the true amount of such indebtedness over and above all payments or set-offs, and that the estate is solvent, it shall be the duty of the said court to allow the said sums so paid in the settlement of said accounts.

1579. Day of settlement to be appointed; clerk must give notice thereof; hearing on settlement.—When any account is rendered for settlement, the clerk of the court must appoint a day for the settlement thereof, and thereupon give notice thereof by causing notices to be posted in at least three public places in the Canal Zone, setting forth the name of the estate, the executor or administrator, and the day appointed for the settlement of the account. If, upon the final hearing at the time of settlement, the court or judge should deem the notice insufficient from any cause, he may order such further notice to be given as may seem to him proper.

CROSS-REFERENCE

Proof of notice of settlement, see section 1584 of this title.

1580. When settlement is final, notice must so state.—If the account mentioned in the next preceding section be for a final settlement and a petition for the final distribution of the estate be filed with said account, the notice of settlement must state those facts, which notice must be given by posting or publication for at least ten days prior to the day of settlement. On the settlement of said account, distribution and partition of the estate to all entitled thereto may be immediately had without further notice or proceedings.

CROSS-REFERENCES

Notice of petition for final distribution, see section 1625 of this title.
Notice on partition and distribution, see sections 1632 and 1638 of this title.

1581. Interested party may file exceptions to account.—On the day appointed, or any subsequent day to which the hearing may be postponed by the court, any person interested in the estate may appear and file his exceptions in writing to the account, and contest the same.

CROSS-REFERENCE

Objections to account, see section 1572 of this title.

1582. All matters may be contested by the heirs; hearing may be postponed.—All matters, including allowed claims not passed upon on the settlement of any former account, or on rendering an exhibit, or on making a decree of sale, may be contested by the heirs, for cause shown. The hearing and allegations of the respective parties may be postponed from time to time, when necessary, and the court may appoint one or more referees to examine the accounts, and make report thereon, subject to confirmation; and may allow a reasonable compensation to the referees to be paid out of the estate of the decedent. Whenever an allowed claim is contested by any heir, or other person entitled to contest it, either the contestant or the claimant is entitled to a trial by jury of the issues of fact presented by the contest; and it is the duty of the court, at request of either party, to call a jury and submit to them such issues, and, after receiving their verdict, to enter an order disposing of such contest in accordance therewith.

CROSS-REFERENCES

Referees, see sections 511 to 517 of this title.
Appointment and compensation of referees, see sections 1487 and 1488 of this title.

1583. Settlement of accounts to be conclusive, when and when not.—The settlement of the account and the allowance thereof by the court, or upon appeal, is conclusive against all persons in any way interested in the estate, saving, however, to all persons laboring under any legal disability, their right to move for cause to reopen and examine the account, or to proceed by action against the executor or administrator, either individually or upon his bond, at any time before final distribution; and in any action brought by any such person, the allowance and settlement of the account is prima facie evidence of its correctness.

1584. Proof of notice of settlement of accounts.—The account must not be allowed by the court until it is first proved that notice has been given as required by this chapter, and the decree must show that such proof was made to the satisfaction of the court, and is conclusive evidence of the fact.

1585. Deceased executor's or guardian's accounts.—If any executor, administrator, or guardian dies, his accounts may be presented by his personal representative to, and settled by, the court in which the estate of which he was executor, administrator, or guardian is being administered, and, upon petition of the successor of such deceased executor, administrator, or guardian, such court may compel the personal representatives of such deceased executor, administrator, or guardian to render an account of the administration of their testator or intestate, and must settle such account as in other cases.

CROSS-REFERENCE

Guardians account, see section 1778 of this title.

ARTICLE 3.—PAYMENT OF DEBTS OF ESTATE

Sec.
1591. Order in which debts must be paid.
1592. Where property insufficient to pay mortgage.
1593. Estate insufficient, a dividend to be paid.
1594. Funeral expenses and expenses of last sickness.
1595. Order for payment of debts, and discharge of the executor or administrator.
1596. Provision for disputed and contingent claims.
Sec.
1597. After decree for payment of debts, executor personally liable to creditors.
1598. Claims not included in order for payment of debts, how disposed of.
1599. Order for payment of legacies, and extension of time.
1600. Final account, when to be made.
1601. Neglect to render final account, how treated.

1591. Order in which debts must be paid.—The debts of the estate must be paid in the following order:

1. Funeral expenses;
2. The expenses of the last sickness;
3. Debts due to the United States;
4. Judgments rendered against the decedent in his lifetime, and mortgages and other liens in the order of their date;
5. All other demands against the estate.

If a debt is payable in a particular kind of money or currency, it must be paid only in such money or currency. If the estate is insolvent, no greater rate of interest must be paid upon any debt, from the time of the first publication of notice to creditors, than is allowed by law on judgments.

CROSS-REFERENCES

Family allowance, see sections 1465 and 1594 of this title.

Interest on claims, see sections 1476 and 1493 of this title.

Debts payable in particular kind of money, see sections 1370 and 1477 of this title.

Expenses of administration and family allowances to be paid before other debts, see title 3, section 612.

Effect of judgment against executor, see section 1485 of this title.

1592. Where property insufficient to pay mortgage.—The preference given in the next preceding section to a mortgage or lien only extends to the proceeds of the property subject to the mortgage or lien. If the proceeds of such property are insufficient to pay the mortgage or lien, the part remaining unsatisfied must be classed with general demands against the estate.

1593. Estate insufficient, a dividend to be paid.—If the estate is insufficient to pay all the debts of any one class, each creditor must be paid a dividend in proportion to his claim; and no creditor of any one class shall receive any payment until all those of the preceding class are fully paid.

CROSS-REFERENCE

Insufficient funds, proceedings in case of, see section 1595 of this title.

1594. Funeral expenses and expenses of last sickness.—The executor or administrator, as soon as he has sufficient funds in his hands, must pay the funeral expenses and the expenses of the last sickness, and the allowance made to the family of the decedent. He may retain in his hands the necessary expenses of administration, but he is not obliged to pay any other debt or any legacy until, as prescribed in this article, the payment has been ordered by the court.

CROSS-REFERENCE

Preference of funeral charges, and expenses of administration, see section 1465 of this title.

1595. Order for payment of debts, and discharge of the executor or administrator.—Upon the settlement of the account of the executor or administrator, provided for in section 1574 of this title, the court must make an order for the payment of the debts, as the circumstances of the estate require. If there are not sufficient funds in the hands of the executor or administrator, the court must specify in the decree the sum to be paid to each creditor. If the whole property of the estate is exhausted by such payment or distribution, such account must be considered as a final account, and the executor or administrator is entitled to his discharge on producing and filing the necessary vouchers and proofs showing that such payments have been made, and that he has fully complied with the decree of the court.

CROSS-REFERENCES

Insufficient funds, payment of dividends, see section 1593 of this title.
Settlement of accounts, see section 1574 of this title.

1596. Provision for disputed and contingent claims.—If there is any claim not due, or any contingent or disputed claim against the estate, the amount thereof, or such part of the same as the holder would be entitled to if the claim were due, established, or absolute, must be paid into the court, and there remain, to be paid over to the party when he becomes entitled thereto; or, if he fails to establish his claim, to be paid over or distributed as the circumstances of the estate require. If any creditor whose claim has been allowed, but is not yet due, appears and assents to a deduction therefrom of the legal interest for the time the claim has yet to run, he is entitled to be paid accordingly. The payments provided for in this section are not to made when the estate is insolvent, unless a pro rata distribution is ordered.

1597. After decree for payment of debts, executor personally liable to creditors.—When a decree is made by the court for the payment of creditors, the executor or administrator is personally liable to each creditor for his allowed claim, or the dividend thereon, and execution may be issued on such decree, as upon a judgment in the court, in favor of each creditor, and the same proceeding may be had under such execution as under execution in other cases. The executor or administrator is liable therefor on his bond to each creditor.

CROSS-REFERENCE

Personal liability of executor, see section 1561 of this title.

1598. Claims not included in order for payment of debts, how disposed of.—When the accounts of the administrator or executor have been settled, and an order made for the payment of debts and distribution of the estate, no creditor whose claim was not included in the order for payment has any right to call upon the creditors who have been paid, or upon the heirs, devisees, or legatees to contribute to the payment of his claim; but if the exectuor or administrator has failed to give the notice to the creditors, as prescribed in section 1472 of this title, such creditor may recover on the bond of the executor or administrator the amount of his claim, or such part thereof as he would have been entitled to had it been allowed. This section shall not apply to any creditor whose claim was not due ten months before the day of settlement, or whose claim was contingent and did not become absolute ten months before such day.

CROSS-REFERENCE

Failure to give notice, revocation of letters, see section 1491 of this title.

1599. Order for payment of legacies, and extension of time.—If the whole of the debts have been paid by the first distribution, the court must direct the payment of legacies and the distribution of the estate among the heirs, legatees, or other persons entitled, as provided in the next chapter; but if there be debts remaining unpaid, or if, for other reasons, the estate be not in a proper condition to be closed, the court must give such extension of time as may be reasonable for a final settlement of the estate.

1600. Final account, when to be made.—At the time designated in the next preceding section, or sooner, if within that time all the property of the estate has been sold, or there are sufficient funds in his hands for the payment of all the debts due by the estate, and the estate be in a proper condition to be closed, the executor or administrator must render a final account, and pray a settlement of his administration.

CROSS-REFERENCE

Settlement of accounts, see section 1574 of this title.

1601. Neglect to render final account, how treated.—If he neglects to render his account, the same proceedings may be had as prescribed in this chapter in regard to the first account to be rendered by him; and all the provisions of this chapter relative to the last-mentioned account, and the notice and settlement thereof, apply to his account presented for final settlement.

CROSS-REFERENCE

Proceedings to enforce account, see sections 1574 to 1576 of this title.

CHAPTER 33.—PARTITION, DISTRIBUTION, AND FINAL SETTLEMENT OF ESTATES

Art. Sec.
1. Partial distribution prior to final settlement 1611
2. Distribution on final settlement 1621
3. Distribution and partition 1631
4. Distribution to person whose address is unknown, etc 1651
5. Agents for absent interested parties; discharge of executor or administrator 1661
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ARTICLE 1.—PARTIAL DISTRIBUTION PRIOR TO FINAL SETTLEMENT

Sec.
1611. Payment of legacies.
1612. Notice of application for legacies.
1613. Executor, or other person interested, may resist application.
1614. Prayer of applicant granted.
1615. Order for payment of bond, and suit thereon.
1616. Partial distribution of estates of deceased persons.

Section 1611. Payment of legacies.—At any time after the lapse of four months from the issuing of letters testamentary or of administration, any heir, devisee, legatee (or his assignee, grantee, or successor in interest) may present his petition to the court for the legacy or share of the estate to which he is entitled, or any portion thereof, to be given to him upon his giving bonds, with security, for the payment of his proportion of the debts of the estate.

CROSS-REFERENCES

Payment of legacies, order of appropriation for, see title 3, section 613.
Proportion of debts for which legacies liable, see title 3, section 626.
Partial distribution, see sections 1614 and 1616 of this title.

1612. Notice of application for legacies.—Notice of the application must be given to the executor or administrator, personally, and to all persons interested in the estate, in the same manner that notice is required to be given of the settlement of the account of an executor or administrator.

CROSS-REFERENCES

Notice of application for partial distribution, see section 1616 of this title.
Notice of settlement of account, see section 1579 of this title.

1613. Executor, or other person interested, may resist application.—The executor or administrator, or any person interested in the estate, may appear at the time named and resist the application.

CROSS-REFERENCES

Any person interested may file exceptions to accounts, see section 1581 of this title.
Any person interested may resist application, see section 1616 of this title.

1614. Prayer of applicant granted.—If, at the hearing, it appears that the estate is but little indebted, and that the share of the party applying may be allowed to him without loss to the creditors of the estate, the court must make an order in conformity with the prayer of the applicant, requiring:

1. BOND.—Each heir, legatee, devisee (or his assignee, grantee, or successor in interest) obtaining such order, before receiving his share or any portion thereof, to execute and deliver to the executor or administrator, a bond, in such sum as may be designated by the court

or judge, with sureties to be approved by the judge, payable to the executor or administrator, and conditioned for the payment, whenever required, of his proportion of the debts due from the estate, not exceeding the value or amount of the legacy or portion of the estate to which he is entitled. Where the time for filing or presenting claims has expired, and all claims that have been allowed, have been paid, or are secured by mortgage upon real estate sufficient to pay them, and the court is satisfied that no injury can result to the estate, the court may dispense with the bond;

2. Delivery of property.—The executor or administrator to deliver to the heir, legatee, devisee (or his assignee, grantee, or successor in interest), the whole portion of the estate to which he may be entitled, or only a part thereof designating it.

If, in the execution of the order, a partition is necessary between two or more of the parties interested, it must be made in the manner hereinafter prescribed. The costs of these proceedings must be paid by the applicant, or if there are more than one, must be apportioned equally among them.

Cross-References

Partition, see sections 1631 et seq., of this title.
Petition for partial distribution, see section 1616 of this title.

1615. Order for payment of bond, and suit thereon.—When any bond has been executed and delivered, under the provisions of the next preceding section, and it is necessary for the settlement of the estate to require the payment of any part of the money thereby secured, the executor or administrator must petition the court for an order requiring the payment, and have a citation issued and served on the party bound, requiring him to appear and show cause why the order should not be made. At the hearing, the court, if satisfied of the necessity of such payment, must make an order accordingly, designating the amount and giving a time within which it must be paid. If the money is not paid within the time allowed, an action may be maintained by the executor or administrator on the bond.

1616. Partial distribution of estates of deceased persons.—Where the time for filing or presenting claims has expired, and all claims that have been allowed have been paid, or are secured by a mortgage upon real estate sufficient to pay them, and the estate is not in a condition to be finally closed and distributed, the executor or administrator, or coexecutor or coadministrator, may present his petition to the court for ratable payment of the legacies, or ratable distribution of the estate to all the heirs, legatees, devisees, or their assignees, grantees, or successors in interest. Notice of such application must be given to all persons interested in the estate, in the same manner that notice is required to be given of the settlement of the account of an executor or administrator.

Any person interested in the estate may appear at the time named and resist the application.

Order granted when.—If, at the hearing, it appears that the allegations of the petition of said executor, administrator, coexecutor, or coadministrator, are true, and the court is satisfied that no injury can result to the estate by granting the petition, the court must make an order directing the executor or executors, administrator or administrators, as the case may be, to deliver to the heirs, legatees, devisees, or to their assigns, grantees, or successors in interest, the whole portion of the estate to which they may be entitled or only a part thereof, designating it.

If, in the execution of the order, a partition is necessary between two or more of the parties interested, it must be made in the manner hereinafter prescribed. The costs of the proceedings under this section must be paid by the estate, excepting that in case a partition is necessary, the costs of such partition must be apportioned amongst the parties interested in such partition.

CROSS-REFERENCES

Notice of application for legacies, see section 1612 of this title.

Petition for partial distribution, see section 1611 of this title.

Bond on granting application for partial distribution, see section 1614 of this title.

ARTICLE 2.—DISTRIBUTION ON FINAL SETTLEMENT

Sec.
1621. Proceedings in the nature of an action to determine heirship; petition.
1622. Final distribution of estate.
1623. What the decree must contain, and is final.
1624. Distribution when decedent was not a resident of the Canal Zone.
Sec.
1625. Petition for final distribution; notice of hearing; contest; partition.
1626. Continuation of administration; petition for.
1627. Distribution after death of heir, etc.

1621. Proceedings in the nature of an action to determine heirship; petition.—In all estates now being administered, or that may hereafter be administered, any person claiming to be heir to the deceased, or entitled to distribution in whole or in any part of such estate, may, at any time prior to the decree of final distribution, file a petition in the matter of such estate, praying the court to ascertain and declare the rights of all persons to said estate and all interests therein, and to whom distribution thereof should be made.

NOTICE TO PERSONS INTERESTED.—Upon the filing of such petition, the court shall make an order directing service of notice to all persons interested in said estate to appear and show cause, on a day to be therein named, not less than sixty days nor over four months from the date of the making of such order, in which notice shall be set forth the name of the deceased, the name of the executor or adminstrator of said estate, the names of all persons who may have appeared claiming any interest in said estate in the course of the administration of the same, up to the time of the making of said order, and such other persons as the court may direct, and also a description of the real estate whereof said deceased died seised or possessed, so far as known, described with certainty to a common intent, and requiring all said persons, and all persons named or not named having or claiming any interest in the estate of said deceased, at the time and place in said order specified, to appear and exhibit, as hereinafter provided, their respective claims of heirship, ownership, or interest in said estate, to said court, which notice shall be served in the same manner as a summons in a civil action, upon proof of which service, by affidavit or otherwise, to the satisfaction of the court, the court shall thereupon acquire jurisdiction to ascertain and determine the heirship, ownership, and interest of all parties in and to the property of said deceased, and such determination shall be final and conclusive in the administration of said estate, and the title and ownership of said property. The court shall enter an order or decree establishing proof of the service of such notice.

Filing of appearance—default.—All persons appearing within the time limited as aforesaid shall file their written appearance in person or through their authorized attorney, such attorney filing at the same time written evidence of his authority to so appear, entry of which appearance shall be made in the minutes of the court and in the register of proceedings of said estate. And the court shall, after the expiration of the time limited for appearing as aforesaid, enter an order adjudging the default of all persons for not appearing as aforesaid who shall not have appeared as aforesaid.

Complaint by interested persons; filing and service of answer to.—At any time within twenty days after the date of the order or decree of the court establishing proof of the service of such notice, any of such persons so appearing may file his complaint in the matter of the estate, setting forth the facts constituting his claim of heirship, ownership, or interest in said estate, with such reasonable particularity as the court may require, and serve a copy of the same upon each of the parties or attorneys who shall have entered their written appearance as aforesaid, if such parties or such attorneys reside within the Canal Zone; and in case any of them do not reside within the Canal Zone, then service of such copy of said complaint shall be made upon the clerk of said court for them, and the clerk shall forthwith mail the same to the address of such party or attorney as may have left with said clerk his post office address.

Proceedings after issues joined.—Such parties are allowed twenty days after the service of the complaint, as aforesaid, within which to plead thereto, and thereafter such proceedings shall be had upon such complaint as in this title provided in case of an ordinary civil action; and the issues of law and of fact arising in the proceedings shall be disposed of in like manner as issues of law and fact are herein provided to be disposed of in civil actions; and the provisions of this title contained regulating the mode of procedure for the trial of civil actions shall be applicable thereto.

Plaintiffs and defendants in proceedings.—The party filing the petition as aforesaid, if he file a complaint, and if not, the party first filing such complaint, shall, in all subsequent proceedings, be treated as the plaintiff therein, and all other parties so appearing shall be treated as the defendants in said proceedings, and all such defendants shall set forth in their respective answers the facts constituting their claim of heirship, ownership, or interest in said estate, with such particularity as the court may require, and serve a copy thereof on the plaintiff.

Evidence in support of all issues may be taken orally or by deposition, in the same manner as provided in civil actions. Notice of the taking of such depositions shall be served only upon the parties, or the attorneys of the parties, so appearing in said proceeding.

Decree, what to determine; conclusiveness of.—The court shall enter a default of all persons failing to appear, or plead, or prosecute, or defend their rights as aforesaid; and upon the trial of the issues arising upon the pleadings in such proceedings, the court shall determine the heirship to said deceased, the ownership of his estate, and the interest of each respective claimant thereto or therein, and persons entitled to distribution thereof, and the final determination of the court thereupon shall be final and conclusive in the distribution of said estate, and in regard to the title to all the property of the estate of said deceased.

The cost of the proceedings under this section shall be apportioned in the discretion of the court.

Attorney for minors.—In any proceeding under this section, the court may appoint an attorney for any minor mentioned in said proceedings not having a guardian.

Determination of heirship at final distribution.—Nothing in this section contained shall be construed to exclude the right upon final distribution of any estate to contest the question of heirship, title, or interest in the estate so distributed, where the same shall not have been determined under the provisions of this section; but where such questions shall have been litigated, under the provisions of this section, the determination thereof as herein provided shall be conclusive in the distribution of said estate.

Cross-References

Notice on final distribution, see sections 1580 and 1625 of this title.
New trials in proceedings under this section, see section 1689 of this title.

1622. Final distribution of estate.—Upon the final settlement of the accounts of the executor or administrator, or at any subsequent time, upon the application of the executor or administrator, or of any heir, legatee, devisee (or his assignee, grantee, or successor in interest), the court must proceed to distribute the residue of the estate in the hands of the executor or administrator, if any, among the persons who by law are entitled thereto; and if the decedent has left a surviving child, or the issue of a deceased child, and any of them, before the close of the administration, have died while under age and not having been married, no administration on such deceased child's estate is necessary, but all the estate which such deceased child was entitled to by inheritance must, without administration, be distributed as provided in Title 3, The Civil Code. A statement of any receipts and disbursements of the executor or administrator, since the rendition of his final account, must be reported and filed at the time of making such distribution; and a settlement thereof, together with an estimate of the expenses of closing the estate must be made by the court, and included in the order or decree, or the court or judge may order notice of the settlement of such supplementary account, and refer the same as in other cases of the settlement of accounts.

CROSS-REFERENCES

Reference to settle accounts, see section 1582 of this title.
Decree to be made only after notice, see section 1625 of this title.
Notice of settlement of account, see section 1579 of this title.
Distribution of property of absentee, see sections 1661 et seq., of this title.

1623. What the decree must contain, and is final.—In the order or decree, the court must name the persons and the proportions or parts to which each shall be entitled, and such persons may demand, sue for, and recover their respective shares from the executor or administrator, or any person having the same in possession. Such order or decree is conclusive as to the rights of heirs, legatees, or devisees.

CROSS-REFERENCES

Subsequent issue of letters on discovery of estate, see section 1668 of this title.
Conclusiveness of decree, see section 1641 of this title.

1624. Distribution when decedent was not a resident of the Canal Zone.—Upon application for distribution, after final settlement of the accounts of administration, if the decedent was a nonresident of the Canal Zone, leaving a will which has been duly proved or allowed in the State of his residence, and an authenticated copy thereof has been admitted to probate in the Canal Zone, or if the decedent died intestate, and an administrator has been duly appointed and qualified in the State of his residence, and it is necessary, in order that the estate, or any part thereof, may be distributed according to the will, or if the court is satisfied that it is for the best interests of the estate, that the estate in the Canal Zone should be delivered to the executor or administrator in the State or place of the decedent's residence, the court may order such delivery to be made, and, if necessary, order a sale of the real estate, and a like delivery of the proceeds. The delivery, in accordance with the order of the court, is a full discharge of the executor or administrator with the will annexed or administrator, in the Canal Zone, in relation to all property embraced in such order, which binds and concludes all parties in interest. Sales of real estate, ordered by virtue of this section, must be made in the same manner as other sales of real estate of decedents by order of the court.

CROSS-REFERENCE

Sales of real estate, see section 1509 of this title.

1625. Petition for final distribution; notice of hearing; contest; partition.—The order or decree may be made on the petition of the executor or administrator, or of any person interested in the estate. When such petition is filed the clerk of the court must set the petition for hearing by the court, and give notice thereof by causing a notice to be posted at the courthouse where the court is held, setting forth the name of the estate, the executor or administrator, and the time appointed for the hearing of the petition. If, upon the hearing of the petition, the court or judge deems the notice insufficient from any cause, he may order such further notice to be given as may seem to him proper. At the time fixed for the hearing, or to which the hearing may be postponed, any person interested in the estate may appear and contest the petition by filing written objections thereto. If the partition is applied for, as provided in this chapter, the decree of distribution does not divest the court of jurisdiction to order partition, unless the estate is finally closed.

Cross-Reference

Notice of petition for final distribution, see section 1580 of this title.

1626. Continuation of administration; petition for.—In all cases where a decedent shall have left a will, in and by the terms of which the testator shall have limited the time for administration upon an estate left by him, and the executor, and all of the legatees or devisees named in the will, shall file and present to the court a petition, in writing, representing that it will be for the best interests of the estate, and of the beneficiaries under the will, to have the administration upon the estate continued for a longer period of time than that designated in such will, and that it would be injurious to the estate, and to such beneficiaries, to have the administration brought to a close at the date therefor designated in the will.

Hearing of petition and notice of.—The court shall then set a day for the hearing of said petition; and notice thereof shall be served on all persons interested in the estate, in the same manner that summons in civil actions is served. Upon the day set for such hearing (or upon some other day to which the hearing may have been continued), the court shall proceed to hear proofs touching the representations made in such petition—and any person interested in the estate may also present counter-proofs in opposition to said application;

Decreeing continuance of administration.—And if, upon such hearing, it be made to appear to the court that the representations made by the petitioners in their said petition contained be true, the court may then, by its order and decree in that behalf, decree and direct that the administration upon the estate continue for and during such further period of time as in its judgment will best subserve the interests of the estate and of the beneficiaries under said will.

Petition to have administration closed.—*Provided, however*, That if, at any time during the period for which the administration upon the estate shall have been thus continued, the executor, or any one or more of the legatees or devisees, shall present to the court his or their petition, representing that it has become necessary for the best interests of the estate, and of the beneficiaries under the will, to have the administration upon the estate closed, the court shall then set a day for the hearing of said last-named petition; and notice thereof shall be given in the same manner, and the same proceedings be had thereupon, as shall have been given for and had upon the hearing of the petition asking for the continuation of such administration. And if, upon such hearing, it shall be made to appear to the court that the representations made by such petitioners or petitioner (as the case may be) are true, the court shall then, by its order and decree in that behalf, decree and direct that the administration upon the estate be closed as soon thereafter as, under the circumstances, shall be practicable.

1627. Distribution after death of heir, etc.—If any heir, legatee, or devisee of an estate shall die before the distribution to him of any part thereof, then the property to which he might be entitled, if living, shall be and become a part of his estate and the same may be distributed to the representative of his estate for the purpose of administration therein, with the same effect as if distributed to him if living.

ARTICLE 3.—DISTRIBUTION AND PARTITION

Sec.
1631. Estate in common; commissioners.
1632. Partition and notice thereof, and the time of filing petition.
1633. Partition may be made, although some of the heirs, etc., have parted with their interest.
1634. Shares to be set out by metes and bounds.
1635. Whole estate may be assigned to one, in certain cases.
Sec.
1636. Payments for equality of partition, by whom and how.
1637. Estate may be sold.
1638. To give notice to all persons and guardians before partition; duties of commissioners.
1639. To make report; setting aside report.
1640. When commissioners to make partitions are not necessary.
1641. Advancements made to heirs.

1631. Estate in common; commissioners.—When the estate, real or personal, assigned by the decree of distribution to two or more heirs, devisees, or legatees, is in common and undivided, and the respective shares are not separated and distinguished, partition or distribution may be made by three disinterested persons, to be appointed commissioners for that purpose by the court, who must be duly sworn to the faithful discharge of their duties, a certified copy of the order of their appointment, and of the order or decree assigning and distributing the estate, must be issued to them as their warrant, and their oath must be indorsed thereon. Upon consent of the parties, or when the court deems it proper and just, it is sufficient to appoint one commissioner only, who has the same authority and is governed by the same rules as if three were appointed.

1632. Partition and notice thereof, and the time of filing petition.—Such partition may be ordered and had in the district court on the petition of any person interested. But before commissioners are appointed, or partition ordered by the court as directed in this chapter, notice thereof must be given to all persons interested who reside in the Canal Zone, or to their guaradians, and to the agents, attorneys, or guardians, if any in the Canal Zone, of such as reside out of the Canal Zone, either personally or by public notice, as the court may direct. The petition may be filed, attorneys, guardians, and agents appointed, and notice given at any time before the order or decree of distribution, but the commissioners must not be appointed until the order or decree is made distributing the estate.

CROSS-REFERENCES

Distribution and partition of estate, see section 1580 of this title.
Notice of partition, see section 1638 of this title.

1633. Partition may be made, although some of the heirs, etc., have parted with their interest.—Partition or distribution of the estate may be made as provided in this chapter, although some of the original heirs, legatees, or devisees may have conveyed their shares to other persons, and such shares must be assigned to the person holding the same, in the same manner as they otherwise would have been to such heirs, legatees, or devisees.

1634. Shares to be set out by metes and bounds.—When both distribution and partition are made, the several shares in the real and personal estate must be set out to each individual in proportion to his right, by metes and bounds, or description, so that the same can be easily distinguished, unless two or more of the parties interested consent to have their shares set out so as to be held by them in common and undivided.

1635. Whole estate may be assigned to one, in certain cases.—When the real estate cannot be divided without prejudice or inconvenience to the owners, the court may assign the whole to one or more of the parties entitled to share therein, who will accept it, always preferring the males to the females, and, among children, preferring the elder to the younger. The parties accepting the whole must pay to the other parties interested their just proportion of the true value thereof, or secure the same to their satisfaction, or in case of the minority of such party, then to the satisfaction of his guardian; and the true value of the estate must be ascertained and reported by the commissioners. When the commissioners appointed to make partition are of the opinion that the real estate cannot be divided without prejudice or inconvenience to the owners, they must so report to the court and recommend that the whole be assigned as herein provided, and must find and report the true value of such real estate. On filing the report of the commissioners, and on making or securing the payment as before provided, the court, if it appears just and proper, must confirm the report, and thereupon the assignment is complete, and the title to the whole of such real estate vests in the person to whom the same is so assigned.

CROSS-REFERENCE

Proceedings on reports, see section 1639 of this title.

1636. Payments for equality of partition, by whom and how.—When any tract of land or tenement is of greater value than any one's share in the estate to be divided, and cannot be divided without injury to the same, it may be set off by the commissioners appointed to make partition to any of the parties who will accept it, giving preference as prescribed in the next preceding section. The party accepting must pay or secure to the others such sums as the commissioners shall award to make the partition equal, and the commissioners must make their award accordingly; but such partition must not be established by the court until the sums awarded are paid to the parties entitled to the same, or secured to their satisfaction.

1637. Estate may be sold.—When it appears to the court, from the commissioners' report, that it cannot otherwise be fairly divided and should be sold, the court may order the sale of the whole or any part of the estate, real or personal, by the executor or administrator, or by a commissioner appointed for that purpose, and the proceeds distributed. The sale must be conducted, reported, and confirmed in the same manner and under the same requirements provided in chapter 29 of this title.

CROSS-REFERENCE

For chapter 29, see sections 1501 et seq., of this title.

1638. To give notice to all persons and guardians before partition; duties of commissioners.—Before any partition is made or any estate divided, as provided in this chapter, notice must be given to all persons interested in the partition, their guardians, agents, or attorneys, by the commissioners, of the time and place when and where they shall proceed to make partition. The commissioners may take testimony, order surveys, and take such other steps as may be necessary to enable them to form a judgment upon the matters before them.

CROSS-REFERENCES

Notice of partition, see section 1632 of this title.
Notice of partition and distribution, see section 1580 of this title.

1639. To make report; setting aside report.—The commissioners must report their proceedings, and the partition agreed upon by them, to the court, in writing, and the court may, for sufficient reasons, set aside the report and commit the same to the same commissioners, or appoint others; and when such report is finally confirmed a certified copy of the judgment, or decree of partition made thereon, attested by the clerk under the seal of the court, must be recorded in the office of the registrar of property.

CROSS-REFERENCE

Proceedings on report, see section 1635 of this title.

1640. When commissioners to make partition are not necessary.—When the court makes a judgment or decree assigning the residue of any estate to one or more persons entitled to the same, it is not necessary to appoint commissioners to make partition or distribution thereof, unless the parties to whom the assignment is decreed, or some of them, request that such partition be made.

1641. Advancements made to heirs.—All questions as to advancements made, or alleged to have been made, by the decedent to his heirs, may be heard and determined by the court, and must be specified in the decree assigning and distributing the estate; and the final judgment or decree of the court is binding on all parties interested in the estate.

CROSS-REFERENCE

Conclusiveness of decree, see section 1623 of this title.

ARTICLE 4.—DISTRIBUTION TO PERSON WHOSE ADDRESS IS UNKNOWN, ETC.

1651. Distribution of estate to person whose address is unknown, etc.—When any estate is distributed by the judgment or decree of the court or judge, as provided in this chapter, to a distributee who cannot be found and his or her place of residence is unknown, or to a distributee who refuses to accept the same or to give a proper voucher therefor, or to a minor or incompetent person, who has no lawful guardian to receive the same, or person authorized to receipt therefor, the portion of said estate consisting of money shall be paid to and deposited with the collector of the Panama Canal, who shall give a receipt for the same, and shall be liable on his official bond therefor; and said receipt shall be deemed and received by the court or judge as a voucher in favor of said executor or administrator, with the same force and effect as if executed by the distributee thereof. And this section shall be applicable to any and all estates now pending in which a final decree of discharge has not been granted.

Any person claiming to be entitled to any amount so deposited with the collector, may, within five years after such deposit, petition the court or judge for an order directing payment to the said distributee. A copy of such petition shall be served on the collector and thereafter no such amount shall be covered into the Treasury of the United States, as hereinafter directed, until so ordered by the court.

If no one claims the amount, as herein provided, or if a claim be made and disallowed and the court so directs, such amount devolves to the United States and shall be covered into the Treasury by the collector as miscellaneous receipts.

ARTICLE 5.—AGENTS FOR ABSENT INTERESTED PARTIES; DISCHARGE OF EXECUTOR OR ADMINISTRATOR

Sec.
1661. Court may appoint agent to take possession for absentees.
1662. Agent to give bond, and his compensation.
1663. Unclaimed estate, how disposed of.
1664. When real and personal property of absentee to be sold.

Sec.
1665. Liability of agent on his bond.
1666. Certificate to claimant.
1667. Final settlement, decree, and discharge.
1668. Discovery of property.

1661. Court may appoint agent to take possession for absentees.—When any estate is assigned or distributed, by a judgment or decree of the court, as provided in this chapter, to any person residing out of, and having no agent in the Canal Zone, and it is necessary that some person should be authorized to take possession and charge of the same for the benefit of such absent person, the court may appoint an agent for that purpose and authorize him to take charge of such estate, as well as to act for such absent person in the distribution.

1662. Agent to give bond, and his compensation.—The agent must execute a bond to the Government of the Canal Zone, to be approved by the court or judge, conditioned that he shall faithfully manage and account for the estate. The court appointing such agent may allow a reasonable sum out of the profits of the estate for his services and expenses.

1663. Unclaimed estate, how disposed of.—When personal property remains in the hands of the agent unclaimed for a year and it appears to the court that it is for the benefit of those interested, it shall be sold under the order of the court, and the proceeds after deducting the expenses of the sale, allowed by the court, must be paid to the collector of the Panama Canal. When the payment is made, the agent must take from the collector a receipt, which he must file in the court. Where any agent has money in his hands as such agent, and it appears to the court upon the settlement of his account as such agent that the balance remaining in his hands should be paid to the collector, the court may direct such payment and upon such agent filing the proper receipt showing such payment, the court shall enter an order discharging such agent and his sureties from all liability therefor. All such funds shall be held and disposed of by the collector in the manner provided in section 1651 of this title.

Cross-Reference

Unclaimed property, see sections 1181 to 1185 of this title.

1664. When real and personal property of absentee to be sold.—The agent must render to the court appointing him, annually, an account, showing:

1. The value and character of the property received by him, what portion thereof is still on hand, what sold, and for what.

2. The income derived therefrom.

3. Expenses incurred in the care, protection, and management thereof, and whether paid or unpaid. When filed the court may examine witnesses and take proofs in regard to the account; and if satisfied from such accounts and proofs that it will be for the benefit and advantage of the persons interested therein, the court, may, by order, direct sale to be made of the whole or such parts of the real or personal property as shall appear to be proper, and the purchase money to be deposited with the collector.

1665. Liability of agent on his bond.—The agent is liable on his bond for the care and preservation of the estate while in his hands, and for the payment of the proceeds of the sale as required in the preceding sections, and may be sued thereon by any person interested.

1666. Certificate to claimant.—When any person appears and claims the money paid to the collector of the Panama Canal, the court making the distribution must inquire into such claim, and being first satisfied of his right thereto, must grant him a certificate to that effect, under its seal; and upon the presentation of the certificate to him, the auditor must draw his warrant on the collector for the amount.

1667. Final settlement, decree, and discharge.—When the estate has been fully administered, and it is shown by the executor or administrator, by the production of satisfactory vouchers, that he has paid all sums of money due from him, and delivered up, under the order of the court, all the property of the estate to the parties entitled, and performed all the acts lawfully required of him, the court must make a judgment or decree discharging him from all liability to be incurred thereafter.

1668. Discovery of property.—The final settlement of an estate, as in this chapter provided, shall not prevent a subsequent issue of letters testamentary or of administration, or of administration with the will annexed, if other property of the estate be discovered, or if it become necessary or proper for any cause that letters should be again issued.

ARTICLE 6.—ACCOUNTS OF TRUSTEES; DISTRIBUTION

Sec.
1671. District court not to lose jurisdiction by final distribution.
1672. Compensation of trustees.
1673. Trustee may decline to act.
1674. Jurisdiction.

1671. District court not to lose jurisdiction by final distribution.—Where any trust has been created by or under any will to continue after distribution, the district court shall not lose jurisdiction of the estate by final distribution, but shall retain jurisdiction thereof for the purpose of the settlement of accounts under the trusts.

ACCOUNTING BY TRUSTEE.—And any trustee created by any will, or appointed to execute any trust created by any will, may, from time to time, pending the execution of his trust, or may, at the termination thereof, render and pray for the settlement of his accounts as such trustee, before the court in which the will was probated, and in the manner provided for the settlement of the accounts of executors and administrators. The trustee or, in case of his death, his legal representatives, shall, for that purpose, present to the court his verified petition, setting forth his accounts in detail, with a report showing condition of trust estate, together with a verified statement of said trustee, giving the names and post office addresses, if known, of the cestuis que trust, and upon the filing thereof, the clerk shall fix a day for the hearing, and give notice thereof of not less than ten days, by causing notices to be posted in at least three public places in the Canal Zone, setting forth the name of the trust estate, the trustee, and the day appointed for the settlement of the account. The court or judge may order such further notice to be given as may be proper. Such trustee may, in the discretion of the court, upon application of any beneficiary of the trust, or the guardian of such beneficiary, be ordered to appear and render his account, after being cited by service of citation, as provided for the service of summons in civil cases, and such application shall not be denied where no account has been rendered to the court within six months prior to such application. Upon the filing of the account so ordered, the same proceedings for the hearing and settlement thereof shall be had as hereinabove provided.

1672. Compensation of trustees.—On all such accountings the court shall allow the trustee or trustees the proper expenses and such compensation for services as the court may adjudge to be just and reasonable, and shall apportion such compensation among the trustees according to the services rendered by them respectively, and may in its discretion fix a yearly compensation for the trustee or trustees to continue as long as the court may judge proper.

1673. Trustee may decline to act.—Any person named or designated as a trustee in any will which has been or shall hereafter be admitted to probate in the Canal Zone may, at any time before final distribution, decline to act as such trustee, and an order of court shall thereupon be made accepting such resignation; but the declination of any such person who has qualified as trustee shall not be accepted by the court, unless the same shall be in writing and filed in the matter of the estate in the court in which the administration is pending, and such notice shall be given thereof as is required upon a petition praying for letters of administration.

Appointment to vacancy.—The court in which the administration is pending shall have power at any time before final distribution to appoint some fit and proper person to fill any vacancy in the office of trustee under the will, whether resulting from such declination, removal, or otherwise; provided, it shall be required by law or necessary to carry out the trust created by the will, that such vacancy shall be filled; and every person so appointed shall, before acting as trustee, give a bond such as is required by section 1352 of this title, of a person to whom letters of administration are directed to issue. Such appointment may be made by the judge upon the written application of any person interested in the trust filed in the probate proceedings, and shall only be made after notice to all parties interested in the trust, given in the same manner as notice is required to be given of the hearing upon the petition for the probate of a will. In each of the preceding cases the court may order such further notice as shall seem necessary.

In accepting a declination under the provisions of this section, the court may make and enforce any order which may be necessary for the preservation of the estate.

1674. Jurisdiction.—The provisions of the next preceding section shall apply in all cases where a final decree of distribution has not been made; but the jurisdiction given by that section shall not exclude, in cases to which it applies, the jurisdiction now possessed by the district court.

CHAPTER 34.—ORDERS, DECREES, PROCESS, MINUTES, RECORDS, AND TRIALS IN PROBATE PROCEEDINGS

Sec.
1681. Orders and decrees in probate proceedings.
1682. How often publication to be made.
1683. Citation, how directed, and what to contain.
1684. Citation, how issued.
1685. Citation, how served.
1686. Personal notice given by citation.
1687. Citation to be served five days before return.
1688. Rules of practice generally.
1689. New trials in probate proceedings.
1690. Issues joined in probate proceedings, how tried and disposed of.

Sec.
1691. Court must try issues joined when no jury is demanded; court must settle and frame issues when jury called.
1692. Costs, by whom paid in certain cases.
1693. Executor, and so forth, to be removed when committed for contempt, and another appointed.
1694. Service of process, and so forth, upon guardian.
1695. Establishment of identity of heirs.

Section 1681. Orders and decrees in probate proceedings.—Orders and decrees made by the court or judge, in probate proceedings, need not recite the existence of facts, or the performance of acts, upon which the jurisdiction of the court or judge may depend, but it shall only be necessary that they contain the matters ordered, or adjudged, except as otherwise provided in chapters 23 to 36 of this title. All orders and decrees of the court or judge must be entered at length in the minute book of the court or must be signed by the judge and filed; but decrees of distribution must always be so entered at length.

1682. How often publication to be made.—When any publication is ordered, such publication must be made daily, or otherwise as often during the prescribed period as the paper is regularly issued, unless otherwise provided in chapters 23 to 36 of this title. The court or judge may, however, order a less number of publications during the period.

CROSS-REFERENCE

Affidavit of publication, see sections 2072 and 2073 of this title.

1683. Citation, how directed, and what to contain.—Citations must be directed to the person to be cited, signed by the clerk, and issued under the seal of the court, and must contain:

1. The title of the proceeding;
2. A brief statement of the nature of the proceeding;
3. A direction that the person cited appear at a time and place specified.

1684. Citation, how issued.—The citation may be issued by the clerk upon the application of any party, without an order of the judge, except in cases in which such order is by the provisions of chapters 23 to 36 of this title expressly required.

1685. Citation, how served.—The citation must be served in the same manner as a summons in a civil action.

CROSS-REFERENCES

Service of summons, see section 165 of this title.
Time for service of citation, see section 1687 of this title.

1686. Personal notice given by citation.—When personal notice is required, and no mode of giving it is prescribed in chapters 23 to 36 of this title, it must be given by citation.

1687. Citation to be served five days before return.—When no other time is specially prescribed in chapters 23 to 36 of this title, citations must be served at least five days before the return-day thereof.

1688. Rules of practice generally.—Except as otherwise provided in chapters 23 to 36 of this title the provisions of chapters 4 to 16 of this title are applicable to and constitute the rules of practice in the proceedings mentioned in said chapters 23 to 36.

CROSS-REFERENCE

Rules of practice, see sections 71 et seq., of this title.

1689. New trials in probate proceedings.—The provisions of chapters 4 to 16 of this title, relative to new trials, except insofar as they are inconsistent with the provisions of chapters 23 to 36 of this title, apply to the proceedings mentioned in said chapters 23 to 36: *Provided*, That hereafter a motion for a new trial in probate proceedings can be made only in cases of contests of wills, either before or after probate, in proceedings under section 1621 of this title and in those cases where the issues of fact, of which a new trial is sought, were tried by a jury or were of such character as to entitle the parties to have them tried by a jury whether or not they were so tried.

CROSS-REFERENCE

New trials, see sections 531 et seq., of this title.

1690. Issues joined in probate proceedings, how tried and disposed of.—All issues of fact joined in probate proceedings must be tried in conformity with the requirements of sections 1231 to 1237 of this title, and in all such proceedings the party affirming is plaintiff, and the one denying or avoiding is defendant. Judgments therein, on the issue joined, as well as for costs, may be entered and enforced by execution or otherwise by the court as in civil actions.

CROSS-REFERENCE

Trial of issues, see section 1691 of this title.

1691. Court must try issues joined when no jury is demanded; court must settle and frame issues when jury called.—If no jury is demanded, the court must try the issues joined, and sign and file its decision in writing, as provided in sections 501 and 502 of this title.

If, on written demand, a jury is called by either party, and the issues are not sufficiently made up by the written pleadings on file, the court, on due notice to the opposite party, must settle and frame the issues to be tried, and submit the same, together with the evidence of each party, to the jury, on which they must render a verdict. Either party may move for a new trial, upon the same grounds and errors, and in like manner, as provided in this title for civil actions.

CROSS-REFERENCE

New trials, see section 1689 of this title.

1692. Costs, by whom paid in certain cases.—When it is not otherwise prescribed in chapter 23 to 36 of this title, the district court, may, in its discretion, order costs to be paid by any party to the proceedings, or out of the assets of the estate, as justice may require. Execution for the costs may issue out of the district court.

CROSS-REFERENCE

Costs, against executor or administrator, see section 1489 of this title.

1693. Executor, etc., to be removed when committed for contempt, and another appointed.—Whenever an executor, administrator, or guardian is committed for contempt in disobeying any lawful order of the court or judge, and has remained in custody for thirty days without obeying such order, or purging himself otherwise of the contempt, the court may, by order reciting the facts, and without further showing or notice revoke his letters and appoint some other person entitled thereto executor, administrator, or guardian in his stead.

1694. Service of process, etc., upon guardian.—Whenever an infant, insane, or incompetent person has a guardian of his estate residing in the Canal Zone, personal service upon the guardian of any process, notice, or order of the court concerning the estate of a deceased person in which the ward is interested, is equivalent to service upon the ward, and it is the duty of the guardian to attend to the interests of the ward in the matter. Such guardian may also appear for his ward and waive any process, notice, or order to show cause which an adult or a person of sound mind might do.

CROSS-REFERENCE

Service of summons on minor, see section 166 of this title.

1695. Establishment of identity of heirs.—In every case where title to real or personal property, or any interest therein, shall have vested or may hereafter become vested, other than by the laws of succession, in the heirs, heirs of the body, issue, or children of any person, without other description or means of identification of the persons embraced in such description, any person interested in such property as such heir, heir of the body, issue, or child, or the successor in interest of any such heir, heir of the body, issue, or child, or the legal representatives of any of such persons or of their said successors in interest, may file a verified petition in the district court in and for the division wherein said property or any part thereof is situate, setting forth briefly the deraignment of title of petitioner, a description of the property affected, and the names, ages, and residences, if known, of the heirs, heirs of the body, issue, or children whose identity is sought to be determined (or if any of the same is dead or if the residence of any of the same is unknown, such facts shall be stated) and a request that a decree be entered in said court determining and establishing the identity of the persons embraced in such general description.

Notice of the time and place for the hearing of said petition must be given by the clerk by posting notices thereof in three or more public places in the Canal Zone at least ten days prior to the date fixed by the clerk for said hearing.

WHO MAY CONTEST PETITION.—At any time before the date fixed for such hearing any person interested in said property may answer said petition and deny any of the matters contained therein.

HEARING AND DECREE.—At the time fixed for such hearing or such time thereafter as may be fixed by the court, the court must hear the proofs offered by the petitioner, and of any person answering the same and must make a decree conformable to the proofs. Such decree shall have the same force and effect as decrees entered in accordance with the provisions of chapters 23 to 36 of this title.

CHAPTER 35.—PUBLIC ADMINISTRATOR

Sec.
1701. Public administrator; appointment.
1702. What estates to be administered by public administrator.
1703. Estates less than $150.
1704. Burial expenses of deceased persons.
1705. Payment of salary or claims.
1706. Disposition of estates of aliens in certain cases.
1707. When public administrator takes charge; his bond and oath.
1708. Duty of persons in whose house any stranger dies.
1709. Must return inventory and administer estates according to chapters 23 to 36.
1710. When another person is appointed administrator or executor, public administrator to deliver up the estate.
1711. Civil officers to give notice of waste to public administrator.
1712. Suits for property of decedents.
1713. Order on public administrator to account.
1714. Not to be interested in the payments for or on account of the estates in his hands.
1715. Commissions of public administrator.
1716. Public administrator to administer oaths.
1717. Preceding chapters applicable to public administrator.

Section 1701. Public administrator; appointment.—There shall be in the Canal Zone a public administrator appointed by the Governor of the Panama Canal.

CROSS-REFERENCE

Public administrator as guardian, see section 1747 of this title.

1702. What estates to be administered by public administrator.—The public administrator must take charge of the estates of persons dying within the Canal Zone, or who, dying elsewhere, leave estates in the Canal Zone, as follows:

1. Of the estates of decedents for which no administrators or executors are appointed, and which, in consequence thereof, may be wasted, uncared for, or lost;
2. Of the estates of decedents who have no known heirs;
3. Of the estates ordered into his hands by the court; and
4. Of the estates upon which letters of administration or letters testamentary have been issued to him by the court.

CROSS-REFERENCE

Fees, see section 1567 of this title.

1703. Estates less than $150.—Whenever the public administrator shall file with the clerk of the district court a statement that the value of any estate, of which he has taken charge, is less than $150, there shall be no regular administration on such estate unless additional estate be found or discovered; and the public administrator may pay out such funds to the creditors, heirs, or other persons legally entitled thereto.

1704. Burial expenses of deceased persons.—Whenever the public administrator takes possession of the estate of a deceased person, as provided in section 1702 of this title, and the method of the defrayal of the expense of the burial of said deceased is not otherwise provided for by law or by the rules, agreement, or death benefits of any order or lodge to which the deceased may at the time of his death belong, or with which he may have been affiliated, the public administrator may, in order to defray the proper expenses of the burial of the body of the deceased and the expenses of the last illness, apply to the judge of the district court for an order permitting the public administrator to summarily sell any personal property belonging to the deceased, and to withdraw any money that the deceased may have on deposit with any bank, and to collect any indebtedness or claim that may be owing to or due the deceased.

No notice of the application need be given and no fee shall be charged by the clerk of the court or the public administrator for the filing of said application, or for any duty or service of the clerk or public administrator or his attorney connected therewith.

Upon the sale of the personal property of the deceased, or the collection of any money, claim, or indebtedness by the public administrator under said order the public administrator shall use the same for the expenses of the burial of the deceased, and the expenses of the last illness.

The public administrator shall file with the clerk of the court a statement showing the property of the deceased that came into his hands and the disposition of the property of the deceased, and shall file with the clerk vouchers showing what disposition was made of the said property or of the proceeds thereof.

1705. Payment of salary or claims.—If a deceased or insane person shall have to his credit with the Panama Canal or the Panama Railroad Company, any sum as salary or other acknowledged claim, the amount so due shall be paid to the public administrator upon demand and be by him administered as a part of said person's estate: *Provided*, That if there should be other regular administration upon such person's estate in a court in the Canal Zone or in any State in the United States, then the sum due shall be paid to such other executor, administrator, or guardian upon presentation of duly authenticated copies of the order or decree appointing such executor, administrator, or guardian: *And provided further*, That in case the amount so due in salary or wages from the Panama Canal or Panama Railroad Company does not exceed $100 and it is shown that there is to be no administration of the deceased employee's estate either by the public administrator or otherwise, then payment may be made to the person or persons who under the laws of the Canal Zone would be entitled to receive the same, if administration were had, under such regulations as may be prescribed by the Governor of the Panama Canal.

1706. Disposition of estates of aliens in certain cases.—If a deceased intestate alien, whose estate is being administered by the public administrator, leaves no heirs in the Canal Zone or the Republic of Panama entitled to receive such estate, the proceeds and residue thereof may be delivered to the diplomatic or consular representative, accredited to the Canal Zone or the Republic of Panama, of the country of which the deceased was a citizen or subject, for delivery by such representative to the heirs of the deceased: *Provided*, That if the deceased was a citizen of the Republic of Panama, the residue of his estate may be delivered to his heirs in the Republic of Panama or to the authorities of the said Republic lawfully designated to receive the same.

1707. When public administrator takes charge; his bond and oath.—Whenever a public administrator takes charge of an estate, of which he is entitled to take charge without letters of administration being issued, or under order of the court, he must, with all convenient dispatch, procure letters of administration thereon, in like manner and on like proceedings as letters of administration are issued to other persons. His official bond and oath are in lieu of the administrator's bond and oath.

CROSS-REFERENCE

Delivering estate to another appointed to act, see sections 1710 and 1713 of this title.

1708. Duty of persons in whose house any stranger dies.—Whenever a stranger, or person without known heirs, dies intestate in the house or premises of another, the possessor of such premises, or anyone knowing the facts, must give immediate notice thereof to the public administrator; and in default of so doing, he is liable for any damage that may be sustained thereby, to be recovered by the public administrator, or any party interested.

1709. Must return inventory and administer estates according to chapters 23 to 36.—The public administrator must make and return a perfect inventory of all estates taken into his possession, administer and account for the same according to the provisions of chapters 23 to 36 of this title, subject to the control and directions of the court.

1710. When another person is appointed administrator or executor, public administrator to deliver up the estate.—If, at any time, letters testamentary or of administration are regularly granted to any other person on an estate of which the public administrator has charge, he must, under the order of the court, account for, pay, and deliver to the executor or administrator thus appointed, all the money, property, papers, and estate of every kind in his possession or under his control.

1711. Civil officers to give notice of waste to public administrator.—All civil officers must inform the public administrator of all property known to them, belonging to a decedent, which is liable to loss, injury, or waste, and which, by reason thereof, ought to be in the possession of the public administrator.

1712. Suits for property of decedents.—The public administrator must institute all suits and prosecutions necessary to recover the property, debts, papers, and other estate of the decedent.

1713. Order on public administrator to account.—The court may, at any time, order the public administrator to account for and deliver all the money and property of an estate in his hands to the heirs, or to the executors or administrators regularly appointed.

1714. Not to be interested in the payments for or on account of the estates in his hands.—The public administrator must not be interested in expenditures of any kind made on account of any estate he administers; nor must he be associated, in business or otherwise, with any one who is so interested.

1715. Commissions of public administrator.—The commissions to be charged by the public administrator shall be as prescribed in section 1567 of this title: *Provided*,. That no commissions shall be charged where it appears that the total assets of the estate do not exceed $1,000 in value.

The public administrator shall pay over all such fees to the collector of the Panama Canal to be covered into the Treasury of the United States as miscellaneous receipts.

1716. Public administrator to administer oaths.—The public administrator may administer oaths in regard to all matters touching the discharge of his duties, or the administration of estates in his hands.

1717. Preceding chapters applicable to public administrator.—When no direction is given in this chapter for the government or guidance of a public administrator in the discharge of his duties, or for the administration of an estate in his hands, the provisions of chapters 23 to 34 of this title must govern, except that wherever notice is required to be given, such notice may, in the discretion of the court, be waived or be given by posting.

CHAPTER 36.—GUARDIAN AND WARD

Art.	Sec.
1. Guardians of minors	1721
2. Guardians of insane and incompetent persons	1741
3. Powers and duties of guardians	1771
4. Sale of property and disposition of the proceeds	1791
5. Nonresident guardians and wards	1801
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ARTICLE 1.—GUARDIANS OF MINORS

Sec.
1721. Appointment of guardians.
1722. When minor may nominate guardian; when not.
1723. When appointment may be made by court, when minor is over fourteen.
1724. Nomination by minors after arriving at fourteen.
1725. Who may be guardian; marriage of guardian does not affect guardianship.
1726. Powers and duties of guardian.
1727. Bond of guardian.
1728. Court may insert conditions in order appointing guardian.
1729. Recording letters of guardianship.
1730. Maintenance of minor out of income of his property.
1731. Guardian to give bond; powers limited.
1732. Power of court to appoint guardians ad litem, not impaired.
1733. When power of guardian is superseded.
1734. Special notice of administrative proceedings; demand for by relatives.

Section 1721. Appointment of guardians.—Either division of the district court, when it appears necessary or convenient, may appoint guardians for the persons and estates, or either of them, of minors who have no guardian legally appointed by will or deed, and who are inhabitants or residents of the division, or who reside outside the Canal Zone and have estate within the division.

Such appointment may be made on the petition of a relative or other person on behalf of the minor, or on the petition of the minor, if fourteen years of age.

NOTICE OF PROCEEDINGS.—Before making such appointment, the court must cause such notice as such court deems reasonable to be given to any person having the care of such minor, and to such relatives of the minor residing in the Canal Zone as the court may deem proper. In all cases notice must be given to the parents of the minor or proof made to the court that their addresses are unknown, or that, for other reason, such notice cannot be given.

TEMPORARY CUSTODY PENDING PROCEEDINGS.—In all such proceedings, when it appears to the satisfaction of the court, either from a verified petition, or from affidavits, that the welfare of the minor will be imperiled if such minor is allowed to remain in the custody of the person then having the care of such minor, the court may make an order providing for the temporary custody of such minor until a hearing can be had on such petition.

PROCEEDINGS WHERE MINOR LIABLE TO BE CARRIED OUT OF CANAL ZONE.—And when it appears to the court that there is reason to believe that such minor will be carried out of the jurisdiction of the court before which the application is made, or will suffer some irreparable injury before compliance with such order providing for the temporary custody of such minor can be enforced, such court may at the time of making such order providing for the temporary custody of such minor cause a warrant to be issued, reciting the facts, and directed to the marshal, commanding such officer to take such minor from the custody of the person in whose care such minor then is and place such minor in custody in accordance with the order of the court.

CROSS-REFERENCES

Appointment upon removal or resignation of former guardian, see section 1812 of this title.
Who may be guardian, see section 1725 of this title.
Powers and duties of guardians, see sections 1771 et seq., of this title.
Guardian and ward, see title 3, sections 201 to 216.
Guardian ad litem, see sections 127, 128, 1694, 1732, and 1772 of this title.
Minors, who are, see title 3, sections 21 and 22.
Adoption of minors, see title 3, sections 191 et seq.
Freeing from parental authority because of abuse, see title 3, section 173.
Authority of parent ceases when, see title 3, section 174.
Seal necessary to appointment of guardian, see section 25 of this title.

1722. When minor may nominate guardian; when not.—If the minor is under the age of fourteen years, the court may nominate and appoint his guardian. If he is fourteen years of age, he may nominate his own guardian, who, if approved by the court, must be appointed accordingly.

1723. When appointment may be made by court, when minor is over fourteen.—If the guardian nominated by the minor is not approved by the court, or if the minor resides out of the Canal Zone, or if, after being duly cited by the court, he neglects for ten days to nominate a suitable person, the court or judge may nominate and appoint the guardian in the same manner as if the minor were under the age of fourteen years.

1724. Nomination by minors after arriving at fourteen.—When a guardian has been appointed by the court for a minor under the age of fourteen years, the minor, at any time after he attains that age, may nominate his own guardian, subject to the approval of the court.

1725. Who may be guardian; marriage of guardian does not affect guardianship.—The father or the mother of a minor child under the age of fourteen years, if found by the court competent to discharge the duties of guardianship, is entitled to be appointed a guardian of such minor child, in preference to any other person. The person nominated by a minor of the age of fourteen years as his guardian, whether married or unmarried, may, if found by the court competent to discharge the duties of guardianship, be appointed as such guardian. The authority of a guardian is not extinguished nor affected by the marriage of the guardian.

CROSS-REFERENCE

Parent, as such, has no control over property of child, see title 3, section 172.

1726. Powers and duties of guardian.—Every guardian appointed has the custody and care of the education of the minor, and the care and management of his estate, until such minor arrives at the age of majority or marries, or until the guardian is legally discharged, unless he is appointed guardian only of the person of the ward. In that event, the guardian is charged with the custody of the ward, and must look to his support, health, and education. He may fix the residence of the ward at any place in the Canal Zone, but not elsewhere without the permission of the court.

CROSS-REFERENCES

Residence of ward, see title 3, section 183.
Termination of authority, see section 1813 of this title.

1727. Bond of guardian.—Before the order appointing any person guardian under this chapter takes effect, and before letters issue, the court shall require of such person a bond to the minor, with sufficient sureties, to be approved by the judge, and in such sum as he shall order, which sum shall not be less than twice the value of the personal property and the probable value of the annual rents, issues and profits of property belonging to the minor; where, however, a surety company is authorized by law to furnish such bond, the court in its discretion may fix the amount of the bond given by such surety company at not less than the value of the personal property and the probable value of the annual rents, issues and profits of property belonging to the minor conditioned that the guardian will faithfully execute the duties of his trust according to law, and the following conditions shall form a part of such bond without being expressed therein:

1. To make an inventory of all the estate, real and personal of his ward, that comes to his possession or knowledge, and to return the same within such time as the court may order.
2. To dispose of and manage the estate according to law and for the best interest of the ward, and faithfully to discharge his trust in relation thereto, and also in relation to the care, custody, and education of the ward.
3. To render an account on oath of the property, estate, and moneys of the ward in his hands, and all proceeds or interests derived therefrom, and of the management and disposition of the same, within

three months after his appointment, and at such other times as the court directs, and at the expiration of his trust to settle his accounts with the court, or with the ward, if he be of full age, or his legal representatives, and to pay over and deliver all the estate, moneys, and effects remaining in his hands, or due from him on such settlement, to the person who is lawfully entitled thereto. Upon filing the bond, duly approved, letters of guardianship must issue to the person appointed. In form the letters of guardianship must be substantially the same as letters of administration, and the oath of the guardian must be indorsed thereon that he will perform the duties of his office as such guardian according to law.

CROSS-REFERENCES

Accounts of guardians, see sections 1777 and 1778 of this title.
Guardian's bond, see sections 1370 and 1731 of this title.

1728. Court may insert conditions in order appointing guardian.—When any person is appointed guardian of a minor, the court may, with the consent of such person, insert in the order of appointment, conditions not otherwise obligatory, providing for the care, treatment, education, and welfare of the minor and for the care and custody of his property. The performance of such conditions shall be a part of the duties of the guardian, for the faithful performance of which he and the sureties on his bond shall be responsible.

CROSS-REFERENCE

Letters of special guardianship issuable at chambers, see section 27 of this title.

1729. Recording letters of guardianship.—All letters of guardianship issued under the provisions of this chapter, with the affidavits and certificates thereon, must be recorded by the clerk of the court having jurisdiction of the persons and estates of the wards.

1730. Maintenance of minor out of income of his property.—If any minor having a father living has property, the income of which is sufficient for his maintenance and education in a manner more expensive than his father can reasonably afford, regard being had to the situation of the father's family and to all the circumstances of the case, the expenses of the education and maintenance of such minor may be defrayed out of the income of his own property, in whole or in part, as judged reasonable, and must be directed by the court; and the charges therefor may be allowed accordingly in the settlement of the accounts of his guardian.

CROSS-REFERENCES

Duty of parent to support and educate child, see title 3, section 166.
Allowance to parent for support of child, see title 3, section 171.
Maintenance of ward, see section 1775 of this title.

1731. Guardian to give bond; powers limited.—Every testamentary guardian must qualify and has the same powers and must perform the same duties with regard to the person and estate of his ward as guardians appointed by the court, except so far as his powers and duties are legally modified, enlarged, or changed by the will by which such guardian was appointed, and except that such guardian need not give bond unless directed to do so by the court.

CROSS-REFERENCES

Bond to be filed and preserved, see section 1815 of this title.
Bond of guardian, see sections 1370, 1727 of this title.

1732. Power of court to appoint guardians ad litem, not impaired.—Nothing contained in this chapter affects or impairs the power of the court to appoint a guardian to defend the interests of any minor interested in any suit or matter pending therein.

CROSS-REFERENCE

Guardian ad litem, see sections 127, 128, 1694 and 1772 of this title.

1733. When power of guardian is superseded.—The power of a guardian appointed by a court is superseded:

1. By order of the court;
2. If the appointment was made solely because of the ward's minority, by his attaining majority;
3. The guardianship over the person of the ward by the marriage of the ward.

1734. Special notice of administrative proceedings; demand for by relatives.—At any time after the issuance of letters of guardianship upon the estate of any minor, insane, or incompetent person, any relative of the ward, or the attorney for such relative, may serve upon the guardian, or upon the attorney for the guardian, and file with the clerk of the court wherein administration of such ward's estate is pending, a written request, stating that he desires special notice of any or all of the following-mentioned matters, steps, or proceedings in the administration of said estate, to wit:

1. Filing of the return of sales of any property of the ward's estate.
2. Filing of accounts.
3. Filing of application for removal of ward's property to any foreign jurisdiction.
4. Filing of petitions for partition of any property of the ward's estate.
5. Proceedings for removal, suspension or discharge of the guardian, or final determination of the guardianship.

REQUEST WHAT TO STATE; NOTICE OF PROCEEDINGS.—Such request shall state the post office address of such relative, or his attorney, and thereafter a brief notice of the filing of any such petitions, applications, or accounts, or proceedings, except petitions for sale of perishable property, or other personal property which will incur expense or loss by keeping, shall be addressed to such relative, or his attorney, at his stated post office address, and deposited in the post office, within two days after the filing of such petition, account, application, or the commencement of such proceedings; or personal service of such notices may be made on such relative, or his attorney, within said two days, and such personal service shall be equivalent to such deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of any such matter.

Finding that notice given.—If, upon the hearing it shall appear to the satisfaction of the court that the said notice has been regularly given, the court shall so find in its order or judgment, and such judgment shall be final and conclusive upon all persons.

ARTICLE 2.—GUARDIANS OF INSANE AND INCOMPETENT PERSONS

A. In General

Sec.
1741. Guardians of insane and other incompetent persons.
1742. Appointment of guardian by court after hearing.
1743. Appointment as guardian.
1744. Powers and duties of guardians.
1745. Proceeding for restoration to capacity.
1746. Definition of incompetent.
1747. Public administrator as guardian of estates of insane employees, other insane or incompetent persons, and minors.

B. Corozal Hospital; Admission, Keeping, and Discharge of Persons

1751. Keeping of insane persons in jail.
1752. Admission of patients in general.
1753. Petition for confinement of insane persons.
Sec.
1754. Hearing to be prompt; ordering custody for observation.
1755. Admission of patient for observation; report on sanity.
1756. Contesting report on sanity.
1757. Temporary release of patients.
1758. Application for discharge of patient.
1759. Discharge of patients.
1760. Committing insane prisoners to hospital; discharge.
1761. No repeal of provisions respecting inquiry into insanity of defendants.
1762. Receiving patients from Panama or from Army or other service branch.
1763. Transfer to St. Elizabeths Hospital of American citizens adjudged insane.

A. IN GENERAL

1741. Guardians of insane and other incompetent persons.—When it is represented to the district court or judge, upon verified petition of any relative or friend, that any person is insane, or from any cause mentally incompetent to manage his property, such court or judge must cause a notice to be given to the supposed insane or incompetent person of the time and place of hearing the case, not less than five days before the time so appointed, and such person, if able to attend, must be produced on the hearing: *Provided*, That when such person is a patient at a hospital in the Canal Zone the certificate of the medical superintendent or acting medical superintendent of such hospital, to the effect that such patient is unable to attend on the hearing shall be prima facie evidence of such fact.

Cross-References

Guardian ad litem, see sections 127, 128, 1694, and 1772 of this title.

Cruelty or neglect of duty toward insane person as felony, see title 5, section 374.

1742. Appointment of guardian by court after hearing.—If, after a full hearing and examination upon such petition, it appears to the court that the person in question is incapable of taking care of himself and managing his property, such court must appoint a guardian of his person and estate, or person or estate, with the powers and duties in this chapter specified.

Cross-References

Appointment at chambers, see section 27 of this title.

Seal necessary, see section 25 of this title.

1743. Appointment as guardian.—In awarding letters of guardianship of the person and estate, or person or estate, of an insane or incompetent person, the court shall appoint as guardian such person as may have been designated pursuant to section 207 of title 3, in which case such person shall be appointed unless good cause to the contrary be shown.

1744. Powers and duties of guardians.—Every guardian appointed, as provided in the next preceding section, has the care and custody of the person of his ward and the management of all his estate, or the care and custody of the person of his ward or the management of all his estate, according to the order of appointment, until such guardian is legally discharged, and he must give bond to such ward in like manner and with like conditions as before prescribed with respect to the guardian of a minor.

CROSS-REFERENCES

Bond of guardians, see section 1727 of this title.
Removal or resignation of guardian, see section 1812 of this title.

1745. Proceeding for restoration to capacity.—Any person who has been declared insane or incompetent, or the guardian, or any relative of such person within the third degree, or any friend, may apply, by petition, to the division of the district court in which he was declared insane, to have the fact of his restoration to capacity judicially determined. The petition must be verified, and must state that such person is then sane or competent. Upon receiving the petition, the court must appoint a day for a hearing before the court, and, if the petitioner requests it, must order an investigation before a jury, which must be summoned and impaneled in the same manner as juries in civil actions. The court must cause notice of the trial to be given to the guardian of the person so declared insane or incompetent, if there is a guardian, and to his or her husband or wife, if there is one, and to his or her father or mother, if living in the Canal Zone. On the trial, the guardian or relative of the person so declared insane or incompetent, and, in the discretion of the court, any other person, may contest the right to the relief demanded. Witnesses may be required to appear and testify, as in civil cases, and may be called and examined by the court on its own motion. If it is found that the person is of sound mind, and capable of taking care of himself and his property, his restoration to capacity must be adjudged, and the guardianship of such person, if such person is not a minor, must cease.

1746. Definition of incompetent.—The words "incompetent", "mentally incompetent", and "incapable", as used in this chapter, shall mean any person who, though not insane, is, by reason of old age, disease, weakness of mind, or from any other cause, unable, unassisted, to properly manage and take care of himself or his property, and by reason thereof would be likely to be deceived or imposed upon by artful or designing persons.

1747. Public administrator as guardian of estates of insane employees, other insane or incompetent persons, and minors.—The public administrator shall take charge of estates of persons employed in the Canal Zone or the Republic of Panama by the Panama Canal or Panama Railroad Company or members of their families who have been adjudged insane by the district court or by a competent court of any State, where such estates consist of personal property and no legal guardian has been appointed.

The district court may in its discretion appoint the public administrator guardian of the estate of any other insane or incompetent person or of any minor.

The public administrator shall comply with all of the provisions of this chapter with respect to the guardianship of similar estates by other persons: *Provided*, *however*, That his official bond and oath shall satisfy the requirements with respect to a guardian's bond and oath: *And provided further*, That wherever notice is required to be given, such notice may, in the discretion of the court, be waived or be given by posting.

CROSS-REFERENCE

Payment to public administrator of sums due insane persons from Canal or Railroad, see section 1705 of this title.

B. COROZAL HOSPITAL; ADMISSION, KEEPING, AND DISCHARGE OF PERSONS

1751. Keeping of insane persons in jail.—No person under observation for insanity or declared to be insane shall be kept in jail, prison, or other similar institution, but shall be kept in suitable quarters within the Corozal Hospital or at such other place as may be deemed advisable by the Superintendent of Corozal Hospital.

CROSS-REFERENCES

Assisting in escape of person legally confined in hospital, see title 5, section 205.

Cruelty or neglect of duty toward insane person as felony, see title 5, section 374.

1752. Admission of patients in general.—Except as otherwise provided in respect to the admission of insane patients from the Republic of Panama, and the admission of members of the United States Army, Navy, and Marine Corps, and beneficiaries of the United States Public Health Service for observation and care pending their transfer to the United States, no person shall be admitted or detained as a patient in the Corozal Hospital except upon the order of the district judge of the Canal Zone: *Provided*, That if a patient is in a state of violent insanity he may be admitted at once by the superintendent of Corozal Hospital, without an order from the court, into the quarters provided for the observation of persons alleged to be insane, upon the written request of any physician employed by the United States Government; or such patient may be admitted to the observation quarters by said superintendent upon his own authority.

It shall be the duty of the superintendent of Corozal Hospital to file a written report with the clerk of the district court within forty-eight hours after the patient has been admitted to the observation quarters, which report shall set out the name, age, and physical condition of the patient, together with the name of physician attending patient at time of admission, and as soon as the clerk shall have received the report, he shall enter it upon the docket and the district judge shall proceed to examine and determine the case in like manner as if the petition had been presented to him prior to the patient's admission into observation quarters.

1753. Petition for confinement of insane persons.—To obtain the judicial order provided for in the next preceding section, it shall be necessary for a relative of the person alleged to be insane, or a physician or other interested person in the Canal Zone, to present a petition, duly subscribed and sworn to by the petitioner, to the judge of the district court, which petition shall state the sex, age, and nationality of patient, if known, and the facts showing the patient's mental infirmity, and, if possible, the history of the case and the form of insanity with which he is suffering and the attending circumstances making it necessary that he be confined in the asylum. If such petition is presented by other than a relative, and there is a known relative within or near the Canal Zone, notice thereof shall be given to such relative. The petition shall be accompanied by a certificate signed by one or more reputable physicians to the effect that in their opinion such person is insane.

1754. Hearing to be prompt; ordering custody for observation.—The petition provided for in the next preceding section shall take precedence over all other matters pending before the court, and if the facts stated therein are sufficient to satisfy the court of the insanity of the person sought to be confined, orders shall be issued at once directing that the person alleged to be insane be taken in custody for observation.

1755. Admission of patient for observation; report on sanity.—The order of the judge directing that the person alleged to be insane be placed under observation shall be sufficient authority for the superintendent of Corozal Hospital to admit the patient into the hospital or other suitable quarters and to detain him for the purpose of observation.

Within thirty days after the patient has been placed under observation the superintendent of Corozal Hospital shall file with the clerk of the court a written report stating whether the patient is sane or insane, and the facts upon which such statement is based. If the observation shall show that the patient is not insane he shall be set at liberty by the superintendent of Corozal Hospital at once, and such action shall be noted in the report submitted to the court. If the observation shall show that the patient is insane, it shall be the duty of the court to render judgment therein, either committing the patient to the Corozal Hospital or directing that he be turned over to his relatives or friends who are able and willing to care for him.

1756. Contesting report on sanity.—The relatives of the person alleged to be insane, or the district attorney, may appear and contest the report of the superintendent, and in such cases the judge shall hear the evidence presented by the parties and render judgment thereon, as provided in the next preceding section.

1757. Temporary release of patients.—Whenever any patient who is not serving a sentence for violation of the criminal laws of the Canal Zone has shown such improvement in his mental condition as would, in the opinion of the superintendent, warrant his temporary release for the purpose of determining whether such improvement is permanent and would eventually warrant the discharge of the patient, the superintendent may release such patient for such period as may be deemed proper by the superintendent after the latter by adequate investigation has satisfied himself that the patient has relatives or friends who are able and willing to receive and care for such patient. If, during such release, it shall appear to the superintendent that the patient should be discharged, a statement as provided in section 1759 of this title shall be filed with the clerk of the court.

1758. Application for discharge of patient.—Any person interested in an inmate of the Corozal Hospital, who believes such inmate is improperly detained therein, may make application to the district judge for the discharge of such patient. Upon receipt of such application the judge shall issue an order to the superintendent of Corozal Hospital to make a report on the patient's condition, and upon the receipt of such report shall consider the case, and, in his discretion, may grant or deny the application. The judge may cause the patient to be examined by two competent physicians, who shall report in writing as to the condition of the patient.

1759. Discharge of patients.—Any patients, except those serving sentences for violation of the criminal laws of the Canal Zone, may be discharged by the superintendent. He shall file with the clerk of the court a written statement that in his judgment such patient has recovered or that the discharge will not be detrimental or dangerous to the public welfare or injurious to the patient: *Provided*, That before discharging any patient who has not recovered, the superintendent shall satisfy himself by adequate investigation that the relatives or friends of the patient are able and willing to receive and care for such patient or that suitable measures for deportation have been taken.

1760. Committing insane prisoners to hospital; discharge.—If any person confined in a prison or penitentiary under the sentence of a court become insane, he shall be committed to the Corozal Hospital by the judge of the district court. In all such cases the provisions of sections 1751 to 1761 of this title, relating to the period of observation of the patient and the trial of the issue as to his insanity, shall be observed. Whenever a person is committed to the Corozal Hospital under the provisions of this section, the order of commitment issued by the court shall include a statement of the offense of which the person was convicted, the term of his imprisonment, and the date upon which said term is to expire. Should such person be discharged from the Corozal Hospital before the date of the expiration of his term of imprisonment, he shall be returned to the penal institution from which he was taken.

1761. No repeal of provisions respecting inquiry into insanity of defendants.—Nothing contained in sections 1751 to 1760 of this title shall be construed to repeal or modify the provisions of title

6, The Code of Criminal Procedure, relating to inquiry into the insanity of defendants before trial or after conviction.

CROSS-REFERENCE

Inquiry into sanity of defendants before trial or after conviction, see title 6, sections 811 to 816.

1762. Receiving patients from Panama or from Army or other service branch.—Insane patients from the Republic of Panama may be admitted and detained in the Corozal Hospital, and discharged therefrom, in accordance with the existing agreements between the Canal Zone authorities and the Panaman authorities, or under such changes and modifications of said agreements as may be made from time to time.

The superintendent of Corozal Hospital is authorized to receive and detain as patients, insane members of the United States Army, Navy, and Marine Corps, and beneficiaries of the United States Public Health Service, for observation and care pending their transfer to the United States, upon the order of the official in charge of the respective service in the Canal Zone.

1763. Transfer to St. Elizabeths Hospital of American citizens adjudged insane.—Upon the application of the Governor of the Panama Canal the Secretary of the Interior is authorized to transfer to St. Elizabeths Hospital, in the District of Columbia, for treatment, all American citizens legally adjudged insane in the Canal Zone whose legal residence in one of the States and Territories or the District of Columbia it has been impossible to establish. Upon the ascertainment of the legal residence of persons so transferred to the hospital, the superintendent of the hospital shall thereupon transfer such persons to their respective places of residence, and the expenses attendant thereon shall be paid from the appropriation for the support of the hospital. (June 12, 1917, ch. 27 sec. 1, 40 Stat. 179 [U.S. Code, title 24, sec. 196].)

ARTICLE 3.—POWERS AND DUTIES OF GUARDIANS

Sec.
1771. Guardian to pay debts of ward from ward's estate.
1772. Guardian to recover debts due his ward and represent him.
1773. Guardian to manage estate frugally, maintain ward and sell or mortgage real estate.
1774. Support of wife from her estate.
1775. Maintenance, support, and education of ward, how enforced.
Sec.
1776. Guardians, powers of, in partition.
1777. Inventory of ward's estate; refusal of guardian to return inventory.
1778. Account of guardian.
1779. Allowance of accounts of joint guardians.
1780. Expenses and compensation of guardians.

1771. Guardian to pay debts of ward from ward's estate.—Every guardian appointed under the provisions of this chapter, whether for a minor or any other person, must pay all just debts due from the ward out of his personal estate and the income of his real estate, if sufficient; if not, then out of his real estate upon selling or mortgaging it and disposing of the proceeds in the manner provided in sections 1791 to 1796 of this title.

CROSS-REFERENCE

Order of sale of property, see sections 1773, and 1791 et seq., of this title.

1772. Guardian to recover debts due his ward and represent him.—Every guardian must settle all accounts of the ward, and demand, sue for, and receive all debts due to him, or may, with the approbation of the court, compound for the same and give discharges to the debtor, on receiving a fair and just dividend of his estate and effects; and he must appear for and represent his ward in all legal suits and proceedings, unless another person be appointed for that purpose.

CROSS-REFERENCES

Appearance by guardians, see sections 127 and 1776 of this title.
Appearance in magistrate's court, see section 695 of this title.
Powers of guardian in partition, see section 1776 of this title.
Guardian ad litem, see sections 127, 128, 1694, and 1732 of this title.

1773. Guardian to manage estate frugally, maintain ward, and sell or mortgage real estate.—Every guardian must manage the estate of his ward frugally and without waste, and apply the income and profits thereof, so far as may be necessary, for the comfortable and suitable maintenance and support of the ward and his family, if there be any; and if such income and profits be insufficient for that purpose, the guardian may sell or mortgage the real estate, as provided in this title, and must apply the proceeds of such sale or mortgage, so far as may be necessary, for the maintenance and support of the ward and his family, if there be any.

CROSS-REFERENCES

Allowance to parent for support of child, see title 3, section 171.
Duty of parent to support and maintain child, see title 3, section 166.
Maintenance of ward out of income, see section 1730 of this title.
Sale of property and disposition of proceeds, see sections 1791 et seq., of this title.

1774. Support of wife from her estate.—If the husband is unable to provide suitably for the care or support of a wife over whose estate a guardian has been appointed by reason of incompetency, the expense of providing such care or support, may, to the extent necessary, be charged against and defrayed out of such estate, as previously directed by the court or as subsequently approved by the court in settling the accounts of the guardian of the estate; for this purpose the guardian may sell or mortgage estate of the ward as provided in this title.

1775. Maintenance, support, and education of ward, how enforced.—When a guardian has advanced, for the necessary maintenance, support, or education of his ward, an amount not disproportionate to the value of his estate or his condition of life, and the same is made to appear to the satisfaction of the court, by proper vouchers and proofs, the guardian must be allowed credit therefor in his settlements. Whenever a guardian fails, neglects, or refuses to furnish suitable and necessary maintenance, support, or education for his ward, the court may order him to do so, and enforce such order by proper process. Whenever any third person, at his request, supplies a ward with such suitable and necessary maintenance, support, or education, and it is shown to have been done after refusal or neglect of the guardian to supply the same, the court may direct the guardian to pay therefor out of the estate, and enforce such payment by due process.

CROSS-REFERENCE

Duty to maintain ward out of proceeds, see sections 1730 and 1773 of this title.

1776. Guardians, powers of, in partition.—The guardian may join in and assent to a partition of the real or personal estate of the ward, wherever such assent may be given by any person: *Provided*, That such assent can only be given after the court having jurisdiction over said estate shall grant an order conferring such authority, which order shall only be made after a hearing in open court upon the petition of the guardian after notice of at least ten days, mailed by the clerk of the court to all the known relatives of the ward residing in the Canal Zone. The guardian may also consent to a partition of the real or personal estate of his ward without action, and agree upon the share to be set off to such ward, and may execute a release in behalf of his ward to the owners of the shares, of the parts to which they may be respectively entitled, upon obtaining from said court having jurisdiction over said estate, authority to so consent after a hearing in open court upon the petition of the guardian after notice of at least ten days, mailed by the clerk of the court to all the known relatives of the ward residing in the Canal Zone.

CROSS-REFERENCE

Appearence by guardian, see sections 127 and 1694 of this title.

1777. Inventory of ward's estate; refusal of guardian to return inventory.—Every guardian must return to the court a verified inventory of the estate of his ward within thirty days after his appointment. He must annually thereafter, and at such other times as directed by the court, render a verified account of the estate of his ward. All the estate of the ward described in the first inventory must be appraised by appraisers, appointed, sworn, and acting in the manner provided for regulating the settlement of the estates of decedents. Such inventory, with the appraisement of the property therein described, must be recorded by the clerk of the court in a proper book kept in his office for that purpose. Whenever any other property of the estate of any ward is discovered, not included in the inventory of the estate already returned, and whenever any other property, has been succeeded to, or acquired by any ward, or for his benefit, the like proceedings must be had for the return and appraisement thereof and the service of the same as are herein provided in relation to the first inventory and return. If within the time prescribed, or within such further time, not exceeding two months which the court or judge shall for reasonable cause allow, the guardian neglects or refuses to return the inventory or render his account, the court may, upon notice, revoke the letters of guardianship and the guardian shall be liable on his bond for any injury to the estate, or any person interested therein, arising from such failure.

CROSS-REFERENCE

Receiving account at chambers, see section 27 of this title.

1778. Account of guardian.—The guardian must, upon the expiration of a year from the time of his appointment and as often thereafter as he may be required, present his account to the court for settlement and allowance. The termination of the relation of guardian and ward by the death of either guardian or ward or by the ward attaining his majority or being restored to capacity shall not cause the court to lose jurisdiction of the proceeding for the purpose of settling the accounts of the guardian.

CROSS-REFERENCES

Bond as requiring accounting, see section 1727 of this title.
Release by ward after attaining majority, see title 3, section 215.
Guardian not discharged until year after majority, see title 3, section 216.
Relationship confidential, see title 3, section 209.
Deceased guardians, account of, see section 1585 of this title.

1779. Allowance of accounts of joint guardians.—When an account is rendered by two or more joint guardians, the court may, in its discretion, allow the same upon the oath of any of them.

1780. Expenses and compensation of guardians.—Every guardian must be allowed the amount of his reasonable expenses incurred in the execution of his trust, and he must also have such compensation for his services as the court in which his accounts are settled deems just and reasonable. He must also be allowed all reasonable and proper disbursements, made after the legal termination of the guardianship, but while that relation, by consent or acquiescence of the parties, still subsists in fact, and before the discharge of the guardian by the court, and which were made by the consent, express or implied, of the ward, and for his benefit or the benefit of his estate.

CROSS-REFERENCE

Advances made, see section 1775 of this title.

ARTICLE 4.—SALE OF PROPERTY AND DISPOSITION OF THE PROCEEDS

Sec.
1791. When income from ward's estate is insufficient.
1792. Application of proceeds of sales.
1793. Investment of proceeds of sales.
1794. Sales of property to conform to law governing executors.
1795. Proceedings for completion of sales by guardians.
1796. Court may order the investment of money of the ward.

1791. When income from ward's estate is insufficient.—When the income of an estate under guardianship is insufficient to maintain the ward and his family or to maintain and educate the ward when a minor, or to pay for his care, treatment, and support, if confined in a hospital for the insane in the Canal Zone, his guardian may sell his real or personal estate, or mortgage the real estate for that purpose subject to confirmation of such sale or mortgage by the court.

CROSS-REFERENCE

Power of guardian to sell property, see section 1771 of this title.

1792. Application of proceeds of sales.—If the estate is sold for the purposes mentioned in this article, the guardian must apply the proceeds of the sale to such purposes, so far as necessary, and put out the residue, if any, on interest, or invest it in the best manner in his power, until the capital is wanted for the maintenance of the ward and his family, or the education of his children, or for the education of the ward when a minor, in which case the capital may be used for that purpose, so far as may be necessary, in like manner as if it had been personal estate of the ward.

CROSS-REFERENCE

Court may order investment of money of ward, see section 1796 of this title.

1793. Investment of proceeds of sales.—If the estate is sold for the purpose of putting out or investing the proceeds, the guardian must make the investment according to his best judgment, or in pursuance of any order that may be made by the court.

CROSS-REFERENCE

Investment of money, see section 1796 of this title.

1794. Sales of property to conform to law governing executors.—All the proceedings by guardians concerning sales of property of their wards, giving notice of sale, reselling the same property, return of sale and application for confirmation thereof, notice and hearing of such application, making orders rejecting or confirming sales and reports of sales, ordering and making conveyances of property sold, allowance of commissions, accounting and settlement of accounts, must be had and made as required by the provisions of chapters 23 to 35 of this title concerning estates of decedents, unless otherwise specially provided in this chapter. All known relatives of the ward within the third degree residing in the Canal Zone whose addresses are known to the guardian shall within two days after filing of the return of sale be served by mail with a brief notice of the time set for hearing of the return.

CROSS-REFERENCE

Settlement of accounts after letters revoked, see section 1575 of this title.

1795. Proceedings for completion of sales by guardians.—All proceedings for the completion of contracts for the sale of real estate by guardians must be had and made as required by the provisions of chapters 23 to 35 of this title concerning the conveyance of real estate by executors and administrators under sections 1541 to 1551 of this title, and said sections are hereby made applicable to conveyances by guardians as provided by section 1822 of this title.

1796. Court may order the investment of money of the ward.—The court, on the application of a guardian, or any person interested in the estate of any ward, after such notice to persons interested therein as the court shall direct, may authorize and require the guardian to invest the proceeds of sales, and any other of his ward's money in his hands, in any manner most to the interest of all concerned therein, and the court may make such other orders and give such directions as are needful for the management, investment, and disposition of the estate and effects as circumstances require.

CROSS-REFERENCES

Investments by guardians, see section 1793 of this title.
Application of proceeds of sales, see section 1792 of this title.

ARTICLE 5.—NONRESIDENT GUARDIANS AND WARDS

Sec.
1801. Guardians of nonresident persons.
1802. Powers and duties of guardians appointed under preceding section.
1803. Such guardians to give bonds.
1804. To what guardianship shall extend.

Sec.
1805. Removal of nonresident ward's property.
1806. Proceedings on such removal.
1807. Discharge of guardians.

1801. Guardians of nonresident persons.—The district court may appoint a guardian of the person and estate, or either, of a minor, insane, or incompetent person, who has no guardian within the Canal Zone, legally appointed by will, deed, or otherwise, and who resides out of the Canal Zone, and has estate within the division or, who, though not having such estate, is within the division, upon petition of any friend of such person or any one interested in his estate, in expectancy or otherwise. Before making such appointment, the court must cause notice to be given to all persons interested, in such manner as such court deems reasonable.

CROSS-REFERENCES

Foreign guardian, see section 1939 of this title.
Appearance by guardian, see sections 127, 128, 1694, 1732, and 1777 of this title.
Appointment of guardians and issuance of letters at chambers, see section 27 of this title.

1802. Powers and duties of guardians appointed under preceding section.—Every guardian, appointed under the next preceding section, has the same powers and performs the same duties, with respect to the estate of the ward found within the Canal Zone, and with respect to the person of the ward, if he shall come to reside therein, as are prescribed with respect to any other guardian appointed under this chapter.

CROSS-REFERENCE

Powers and duties of guardians, see sections 1771 et seq., of this title.

1803. Such guardians to give bonds.—Every guardian must give bond to the ward, in the manner and with the like conditions as hereinbefore provided for other guardians, except that the provisions respecting the inventory, the disposal of the estate and effects, and the account to be rendered by the guardian, must be confined to such estate and effects as come to his hands in the Canal Zone.

CROSS-REFERENCE

Bond, see section 1727 of this title.

1804. To what guardianship shall extend.—The guardianship which is first lawfully granted of any person residing out of the Canal Zone extends to all the estate of the ward within the Canal Zone.

1805. Removal of nonresident ward's property.—When the guardian and ward are both nonresidents, and the ward is entitled to property in the Canal Zone, which may be removed to a State or foreign country without conflict with any restriction or limitation thereupon, or impairing the right of the ward thereto, such property may be removed to the State or foreign country of the residence of the ward, upon the application of the guardian to the division of the district court in which the estate of the ward, or the principal part thereof, is situated.

1806. Proceedings on such removal.—The application must be made upon ten days' notice to the resident executor, administrator, or guardian, if there be such, and upon such application the nonresident guardian must produce and file a certificate, under the hand of the clerk and seal of the court, from which his appointment was derived, showing—

1. A transcript of the record of his appointment.
2. That he has entered upon the discharge of his duties.
3. That he is entitled, by the laws of the State, of his appointment to the possession of the estate of the ward or must produce and file a certificate, under the hand and seal of the clerk of the court having jurisdiction in the country of his residence, of the estates of persons under guardianship, or of the highest court of such country, attested by a minister, consul, or vice consul of the United States, resident in such country, that, by the laws of such country, the applicant is entitled to the custody of the estate of his ward, without the appointment of any court. Upon such application, unless good cause to the contrary is shown, the court must make an order granting to such guardian leave to take and remove the property of his ward to the State or place of his residence, which is authority to him to sue for and receive the same in his own name, for the use and benefit of his ward.

1807. Discharge of guardians.—Such order is a discharge of the executor, administrator, local guardian, or other person in whose possession the property may be at the time the order is made, on filing with the clerk of the court a receipt therefor of a foreign guardian of such absent ward, and transmitting a duplicate receipt, or a certified copy of such receipt, to the court from which such nonresident guardian received his appointment.

ARTICLE 6.—GENERAL AND MISCELLANEOUS PROVISIONS

Sec.
1811. Examination of persons suspected of defrauding wards or concealing property.
1812. Removal and resignation of guardian, and surrender of estate.
1813. Guardianship, how terminated.
1814. New bond, when required.
1815. Guardian's bond to be filed; action on.
1816. Limitation of actions on guardian's bond.
1817. Limitation of actions for the recovery of property sold.
1818. More than one guardian of a person may be appointed.
1819. Order appointing guardian, how entered.
1820. Provisions of sections 962 and 963 apply to guardians.
1821. Court may make decree authorizing guardian to make conveyance for incompetent.
1822. Conveyance by guardian.
1823. Attorney's fees against minor fixed by court; judgment not in excess of $500.
1824. Parent's right to compromise claim of minor.

1811. Examination of persons suspected of defrauding wards or concealing property.—Upon complaint made by any guardian, ward, creditor, or other person interested in the estate, or having a prospective interest therein as heir or otherwise, against any one suspected of having concealed, embezzled, smuggled, or fraudulently disposed of, any of the money, goods, or effects, or an instrument in writing belonging to the ward or to his estate, the district court may cite such suspected person to appear before such court, and may examine and proceed against him on such charge in the manner provided in chapters 23 to 35 of this title, with respect to persons suspected of and charged with concealing, embezzling, smuggling, or fraudulently disposing of the effects of a decedent.

CROSS-REFERENCE

Embezzlement of property of estate, see sections 1451 et seq., of this title.

1812. Removal and resignation of guardian, and surrender of estate.—When a guardian, appointed either by the testator or the court, becomes insane or otherwise incapable of discharging his trust or unsuitable therefor, or has wasted or mismanaged the estate, or failed for thirty days to render an account or make a return, the district court may, upon such notice to the guardian as the court may require, remove him and compel him to surrender the estate of the ward to the person found to be lawfully entitled thereto. Every guardian may resign when it appears proper to allow the same; and upon the resignation or removal of a guardian, as herein provided, the court may appoint another in the place of the guardian who resigned or was removed.

CROSS-REFERENCES

Removal of guardian committed for contempt, see section 1693 of this title.
Suspension of power of guardian, see title 3, section 214.
Grounds for removal of guardian, see title 3, section 212.

1813. Guardianship, how terminated.—The marriage of a minor ward terminates the guardianship of the person of such ward, but not the estate; and the guardian of an insane or other person may be discharged by the court, when it appears on the application of the ward or otherwise, that the guardianship is no longer necessary.

CROSS-REFERENCES

Termination of authority, see section 1733 of this title.
Suspension of power of guardian, see title 3, section 214.
Discharge one year after ward's majority, see title 3, section 216.

1814. New bond, when required.—The court may require a new bond to be given by a guardian whenever such court deems it necessary, and may discharge the existing sureties from further liability, after due notice given as such court may direct, when it shall appear that no injury can result therefrom to those interested in the estate.

1815. Guardian's bond to be filed; action on.—Every bond given by a guardian must be filed and preserved in the office of the clerk of the district court, and in case of a breach of a condition thereof, may be prosecuted for the use and benefit of the ward, or of any person interested in the estate.

CROSS-REFERENCE

Real party in interest, see section 122 of this title.

1816. Limitation of actions on guardian's bond.—No action can be maintained against the sureties on any bond given by a guardian, unless it be commenced within three years from the discharge or removal of the guardian; but if at the time of such discharge the person entitled to bring such action is under any legal disability to sue, the action may be commenced at any time within three years after such disability is removed.

1817. Limitation of actions for the recovery of property sold.—No action for the recovery of any estate, sold by a guardian, can be maintained by the ward, or by any person claiming under him, unless it is commenced within three years next after the termination of the guardianship, or when a legal disability to sue exists by reason of minority or otherwise, at the time when the cause of action accrues, within three years next after the removal thereof.

1818. More than one guardian of a person may be appointed.—The court, in its discretion, whenever necessary, may appoint more than one guardian of any person subject to guardianship, each of whom must give a separate bond, and be governed and liable in all respects as a sole guardian.

1819. Order appointing guardian, how entered.—Any order appointing a guardian becomes a decree of the court and must be entered at length in the minute book of the court or must be signed by the judge and filed.

The provisions of chapters 23 to 35 of this title, relative to the estates of decedents, so far as they relate to the practice in the district court, apply to proceedings under this chapter.

CROSS-REFERENCE

Power at chambers, see section 27 of this title.

1820. Provisions of sections 962 and 963 apply to guardians.—The provisions of sections 962 and 963 of this title are hereby declared to apply to guardians appointed by the court, and to the bonds taken or to be taken from such guardians, and to the sureties on such bonds.

1821. Court may make decree authorizing guardian to make conveyance for incompetent.—When a person who is bound by a contract in writing to convey any real estate shall afterwards and before making the conveyance become and be adjudged to be an incompetent person, the court may make a decree authorizing and directing his guardian to convey such real estate to the person entitled thereto. Such decree may be made under the provisions of sections 1541 to 1551 of this title, all of which provisions are hereby incorporated in this section; the word " incompetent " being substituted for the word " deceased " or " decedent " and the word " guardian " being substituted for the words " administrator " or " executor ", respectively, wherever said words occur.

1822. Conveyance by guardian.—When a person who is bound by contract in writing to convey any real estate, or to transfer any personal property, dies before making conveyance or transfer, and in all cases when such decedent, if living might be compelled to make such conveyance or transfer, the court, having jurisdiction of the guardianship proceedings of such minor may make a decree authorizing and directing the guardian of any minor, who has succeeded by distribution to the estate of such deceased person, to convey or transfer such real estate or personal property to the person entitled thereto.

1823. Attorney's fees against minor fixed by court; judgment not in excess of $500.—All contracts for attorney's fees made by or for the benefit of minors shall be void, and whenever a judgment shall be recovered by or on behalf of a minor, the attorney's fees chargeable against said minor shall be fixed by the court in which said judgment is rendered; and if said judgment is for money, and there is no general guardian of said minor, one shall be appointed by the court, and the entire amount of the judgment shall be paid to and shall be cared for by such general guardian, under the control of the court: *Provided*, That where a minor has brought an action by a guardian ad litem and has recovered a money judgment not in excess of $500, exclusive of costs, and the guardian ad litem is a parent or blood relative of said minor, then, with the approval of the court that rendered the judgment the whole amount of said judgment may be paid directly to such guardian ad litem without any bond being required therefor. The court in any of the cases provided for herein may direct the amount fixed as attorney's fees to be paid directly to the attorney, and the balance to be paid to such guardian ad litem of said minor, or to the general guardian of said minor if a general guardian has been appointed or is required by the court.

1824. Parent's right to compromise claim of minor.—Where a minor shall have a disputed claim for money against a third person, the father, and if the father be dead or has deserted or abandoned the minor, then the mother of said minor, shall have the right to compromise such claim, but before the compromise shall be valid or of any effect the same shall be approved by the division of the district court where the minor resides, upon a verified petition in writing, regularly filed with said court. If the court approves such compromise, the said district court may direct the money to be paid to the father or mother of such minor, with or without the filing of any bond, or it may require a general guardian or guardian ad litem to be duly appointed and the money to be paid to such guardian or guardian ad litem with or without a bond as in the discretion of the court seems to the best interests of said minor. The clerk of the district court shall not charge any fee for filing said petition for leave to compromise or for placing the same upon the calendar to be heard by the court.

CHAPTER 37.—ESTATES OF MISSING PERSONS

Sec.
1831. Trustees of the estates of missing persons; appointment of, by the court.

Sec.
1832. Bonds to be given by trustees.
1833. Powers and duties of trustees.

Section 1831. Trustees of the estates of missing persons; appointment of, by the court.—Whenever any resident of the Canal Zone, who owns or is entitled to the possession of any real or personal property situate therein, is missing, or his whereabouts unknown, for ninety days, and a verified petition is presented to the division of the district court of which he is a resident by his wife or any of his family or friends, representing that his whereabouts has been, for such time, and still is, unknown, and that his estate requires attention, supervision, and care of ownership, the court must order such petition to be filed, and appoint a day for its hearing, not less than ten days from the date of the order.

NOTICE AND HEARING.—The clerk of the court must thereupon publish, for at least ten days prior to the day so appointed, a notice in some newspaper of general circulation in the Canal Zone, stating that such petition will be heard at the court room of the court at the time appointed for the hearing. The court may direct further notice of the application to be given in such manner and to such persons as it may deem proper. At the time so fixed for such hearing, or at any subsequent time to which the hearing may be postponed, the court must hear the petition and the evidence offered in support of or in opposition thereto, and, if satisfied that the allegations thereof are true, and that such person remains missing, and his whereabouts unknown, must appoint some suitable person to take charge and possession of such estate, and manage and control it under the direction of the court.

PREFERENCE OF WIFE OR NOMINEE.—In appointing a trustee, the court must prefer the wife of the missing person (if any such there is), or her nominee, and, in the absence of a wife, some person, if such there is who is willing to act, entitled to participate in the distribution of the missing person's estate were he dead.

1832. Bonds to be given by trustees.—Every person appointed under the provisions of the next preceding section must give bond in the amount and as provided for in section 1352 of this title.

1833. Powers and duties of trustees.—The trustee must take possession of the real and personal estate in the Canal Zone of such missing person, and collect and receive the rents, income, and proceeds thereof, collect all indebtedness owing to him, and pay the expenses thereof out of the trust funds, and pay such indebtedness of the missing person as may be authorized by the court. The court may direct the trustee to pay to the person or persons constituting the family of the missing person such sum or sums of money for family expenses and support from the income of the estate as it may, from time to time, determine. The trustee must, from time to time, when directed by the court, account to and with it for all his acts as trustee, and the court may, at any time, upon good cause shown, remove any trustee, and appoint another in his place.

CHAPTER 38.—EVIDENCE

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ARTICLE 1.—GENERAL DEFINITIONS AND DIVISIONS

Sec.
1841. Definition of evidence.
1842. Definition of proof.
1843. Definition of law of evidence.
1844. Degree of certainty required to establish facts.
1845. Four kinds of evidence specified.
1846. Several degrees of evidence specified.
1847. Primary evidence defined.
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1849. Direct evidence defined.
1850. Indirect evidence defined.
1851. Prima facie evidence defined.
1852. Partial evidence defined.
1853. Indispensable evidence defined.
1854. Conclusive evidence defined.
1855. Cumulative evidence defined.
1856. Corroborative evidence defined.

Section 1841. Definition of evidence.—Judicial evidence is the means, sanctioned by law, of ascertaining in a judicial proceeding the truth respecting a question of fact.

1842. Definition of proof.—Proof is the effect of evidence, the establishment of a fact by evidence.

Cross-References

Degree required, see section 1844 of this title.
Order of proof, see sections 461 and 2111 of this title.
Extent of proof, see sections 1885 and 1887 of this title.
Burden of proof, see sections 1887 and 2031 of this title.

1843. Definition of law of evidence.—The law of evidence, which is the subject of this chapter, is a collection of general rules established by law—

1. For declaring what is to be taken as true without proof;

2. For declaring the presumptions of law, both those which are disputable and those which are conclusive; and

3. For the production of legal evidence;

4. For the exclusion of whatever is not legal;

5. For determining, in certain cases, the value and effect of evidence.

1844. Degree of certainty required to establish facts.—The law does not require demonstration; that is, such a degree of proof as, excluding possibility of error, produces absolute certainty; because such proof is rarely possible. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

CROSS-REFERENCE

Proof, see section 1842 of this title.

1845. Four kinds of evidence specified.—There are four kinds of evidence—

1. The knowledge of the court.
2. The testimony of witnesses.
3. Writings.
4. Other material objects presented to the senses.

CROSS-REFERENCES

Knowledge of court, see section 1891 of this title.
Witnesses, see sections 1901 et seq., of this title.
Writings, see sections 1911 et seq., of this title.
Other material objects, see section 1991 of this title.

1846. Several degrees of evidence specified.—There are several degrees of evidence:

1. Primary and secondary.
2. Direct and indirect.
3. Prima facie, partial, satisfactory, indispensable, and conclusive.

1847. Primary evidence defined.—Primary evidence is that kind of evidence which, under every possible circumstance, affords the greatest certainty of the fact in question. Thus, a written instrument is itself the best possible evidence of its existence and contents.

1848. Secondary evidence defined.—Secondary evidence is that which is inferior to primary. Thus, a copy of an instrument or oral evidence of its contents is secondary evidence of the instrument and contents.

CROSS-REFERENCE

Contents of a writing, see sections 1872 to 1874 of this title.

1849. Direct evidence defined.—Direct evidence is that which proves the fact in dispute, directly, without an inference or presumption, and which in itself, if true, conclusively establishes that fact. For example, if the fact in dispute be an agreement, the evidence of a witness who was present and witnessed the making of it, is direct.

1850. Indirect evidence defined.—Indirect evidence is that which tends to establish the fact in dispute by proving another, and which, though true, does not of itself conclusively establish that fact, but which affords an inference or presumption of its existence. For example, a witness proves an admission of the party to the fact in dispute. This proves a fact, from which the fact in dispute is inferred.

CROSS-REFERENCE

Indirect evidence, see sections 2001 et seq., of this title.

1851. Prima facie evidence defined.—Prima facie evidence is that which suffices for the proof of a particular fact, until contradicted and overcome by other evidence. For example, the certificate of a recording officer is prima facie evidence of a record, but it may afterwards be rejected upon proof that there is no such record.

CROSS-REFERENCE

Disputable presumption, see section 2007 of this title.

1852. Partial evidence defined.—Partial evidence is that which goes to establish a detached fact, in a series tending to the fact in dispute. It may be received, subject to be rejected as incompetent, unless connected with the fact in dispute by proof of other facts. For example, on an issue of title to real property, evidence of the continued possession of a remote occupant is partial, for it is of a detached fact, which may or may not be afterwards connected with the fact in dispute.

CROSS-REFERENCE

Connected with a fact in dispute, see section 1886 of this title.

1853. Indispensable evidence defined.—Indispensable evidence is that without which a particular fact cannot be proved.

CROSS-REFERENCES

Indispensable evidence, see sections 2011 et seq., of this title.
Two witnesses to prove lost will, see section 1262 of this title.

1854. Conclusive evidence defined.—Conclusive or unanswerable evidence is that which the law does not permit to be contradicted. For example, the record of a court of competent jurisdiction cannot be contradicted by the parties to it.

CROSS-REFERENCE

Conclusive evidence, see sections 1934, 2006, and 2021 of this title.

1855. Cumulative evidence defined.—Cumulative evidence is additional evidence of the same character, to the same point.

1856. Corroborative evidence defined.—Corroborative evidence is additional evidence of a different character, to the same point.

ARTICLE 2.—GENERAL PRINCIPLES OF EVIDENCE

Sec.
1861. One witness sufficient to prove a fact.
1862. Testimony confined to personal knowledge.
1863. Testimony to be in presence of persons affected.
1864. Witness presumed to speak the truth.
1865. Rights of one person not affected by act of another.
1866. Declarations of predecessor in title evidence.
1867. Declarations which are a part of the transaction.
1868. Evidence relating to third person.
1869. Declaration of decedent evidence of pedigree.
1870. Declaration of decedent evidence against his successor in interest.
1871. When part of a transaction proved, the whole is admissible.
1872. Contents of writing, how proved.
1873. Proof of contents of lost public record or document; abstract of title may be admitted in evidence.
1874. An agreement reduced to writing deemed the whole.

Sec.
1875. Construction of language relates to place where used.
1876. Construction of statutes and instruments, general rule.
1877. The intention of the legislature or parties.
1878. The circumstances to be considered.
1879. Terms to be construed in their general acceptation.
1880. Written words control those printed in a blank form.
1881. Persons skilled may testify, to decipher characters.
1882. Of two constructions, which preferred.
1883. A written instrument construed as understood by parties.
1884. Construction in favor of natural right preferred.
1885. Material allegation only to be proved.
1886. Evidence confined to material allegation.
1887. Affirmative only to be proved.
1888. Facts which may be proved on trial.

1861. One witness sufficient to prove a fact.—The direct evidence of one witness who is entitled to full credit is sufficient for proof of any fact, except perjury and treason.

CROSS-REFERENCES

Witnesses, see sections 1901 et seq., of this title.
Two witnesses for lost will, see section 1262 of this title.
Perjury and treason, more than one witness, see section 2012 of this title.

1862. Testimony confined to personal knowledge.—A witness can testify of those facts only which he knows of his own knowledge; that is, which are derived from his own perceptions, except in those few express cases in which his opinions or inferences, or the declarations of others, are admissible.

CROSS-REFERENCE

Opinions, inferences, declarations, see section 1888 of this title.

1863. Testimony to be in presence of persons affected.—A witness can be heard only upon oath or affirmation, and upon a trial he can be heard only in the presence and subject to the examination of all the parties, if they choose to attend and examine.

CROSS-REFERENCES

Administration of oath or affirmation, see sections 2171 to 2175 of this title.
Examination of witnesses, see sections 2111 et seq., of this title.

1864. Witness presumed to speak the truth.—A witness is presumed to speak the truth. This presumption, however, may be repelled by the manner in which he testifies, by the character of his testimony, or by evidence affecting his character for truth, honesty, or integrity, or his motives, or by contradictory evidence; and the jury are the exclusive judges of his credibility.

CROSS-REFERENCES

Impeaching credit, see sections 2118, 2120, and 2121 of this title.
Evidence of good character, see section 2122 of this title.
Value of evidence, see section 2131 of this title.

1865. Rights of one person not affected by act of another.—The rights of a party cannot be prejudiced by the declaration, act, or omission of another, except by virtue of a particular relation between them; therefore, proceedings against one cannot affect another.

1866. Declarations of predecessor in title evidence.—Where, however, one derives title to real property from another, the declaration, act, or omission of the latter, while holding the title, in relation to the property, is evidence against the former.

CROSS-REFERENCE

Declarations of decedent, see section 1870 of this title.

1867. Declarations which are a part of the transaction.—Where, also, the declaration, act, or omission forms part of a transaction, which is itself the fact in dispute, or evidence of that fact, such declaration, act, or omission is evidence, as part of the transaction.

1868. Evidence relating to third person.—And where the question in dispute between the parties is the obligation or duty of a third person, whatever would be the evidence for or against such person is prima facie evidence between the parties.

1869. Declaration of decedent evidence of pedigree.—The declaration, act, or omission of a member of a family who is a decedent, or out of the jurisdiction, is also admissible as evidence of common reputation, in cases where, on questions of pedigree, such reputation is admissible.

CROSS-REFERENCE

Evidence of pedigree, see section 1888 of this title.

1870. Declaration of decedent evidence against his successor in interest.—The declaration, act, or omission of a decedent, having sufficient knowledge of the subject, against his pecuniary interest, is also admissible as evidence to that extent against his successor in interest.

CROSS-REFERENCES

Decedent's declaration against interest, see section 1888 of this title.
Entries and other writings, see section 1978 of this title.
Declaration of predecessor in title, see section 1866 of this title.

1871. When part of a transaction proved, the whole is admissible.—When part of an act, declaration, conversation, or writing is given in evidence by one party, the whole on the same subject may be inquired into by the other; when a letter is read, the answer may be given; and when a detached act, declaration, conversation, or writing is given in evidence, any other act, declaration, conversation, or writing, which is necessary to make it understood, may also be given in evidence.

1872. Contents of writing, how proved.—There can be no evidence of the contents of a writing, other than the writing itself, except in the following cases:

1. When the original has been lost or destroyed; in which case proof of the loss or destruction must first be made.

2. When the original is in possession of the party against whom the evidence is offered, and he fails to produce it after reasonable notice.

3. When the original is a record or other document in the custody of a public officer.

4. When the original has been recorded, and a certified copy of the record is made evidence by this title or other statute.

5. When the original consists of numerous accounts or other documents, which cannot be examined in court without great loss of time, and the evidence sought from them is only the general result of the whole.

In the cases mentioned in subdivisions 3 and 4, a copy of the original, or of the record, must be produced; in those mentioned in subdivisions 1 and 2, either a copy or oral evidence of the contents.

CROSS-REFERENCES

Contents of writing, see sections 1969 and 2013 of this title.
Lost or destroyed instruments, see sections 951 and 1969 of this title.
Writing in possession of adverse party, how proved, see section 1970 of this title.
Public writings, generally, see sections 1921 et seq., of this title.
Affidavits, see sections 2071 et seq., of this title.
Certified copies of records, see sections 1945 et seq., of this title.

1873. Proof of contents of lost public record or document; abstract of title may be admitted in evidence.—When, in any action, it is desired to prove the contents of any public record or document lost or destroyed by conflagration or other public calamity and after proof of such loss or destruction, there is offered in proof of such contents (a) any abstract of title made and issued and certified as correct prior to such loss or destruction, and purporting to have been prepared and made in the ordinary course of business by any person, firm, or corporation engaged in the business of preparing and making abstracts of title prior to such loss or destruction; (b) any abstract of title, or of any instrument affecting title, made, issued, and certified as correct by any person, firm, or corporation engaged in the business of insuring titles or issuing abstracts of title, to real estate whether the same was made, issued, or certified before or after such loss or destruction and whether the same was made from the original records or from abstracts and notes, or either, taken from such records in the preparation and upkeeping of its, or his, plant in the ordinary course of its business, the same may, without further proof, be admitted in evidence for the purpose aforesaid.

No proof of the loss of the original document or instrument shall be required other than the fact that the same is not known to the party desiring to prove its contents to be in existence: *Provided, nevertheless*, That any party so desiring to use said evidence shall give reasonable notice in writing to all other parties to the action who have appeared therein, of his intention to use the same at the trial of said action, and shall give all such other parties a reasonable opportunity to inspect the same, and also the abstracts, memoranda, or notes from which it was compiled, and to take copies thereof.

1874. An agreement reduced to writing deemed the whole.—When the terms of an agreement have been reduced to writing by the parties, it is to be considered as containing all those terms, and therefore there can be between the parties and their representatives, or successors in interest, no evidence of the terms of the agreement other than the contents of the writing, except in the following cases:

1. Where a mistake or imperfection of the writing is put in issue by the pleadings;
2. Where the validity of the agreement is the fact in dispute.

But this section does not exclude other evidence of the circumstances under which the agreement was made or to which it relates, as defined in section 1878 of this title, or to explain an extrinsic ambiguity, or to establish illegality or fraud. The term agreement includes deeds and wills, as well as contracts between parties.

CROSS-REFERENCES

Writing supersedes oral negotiations, see title 3, section 887.

Parol evidence to vary or contradict written agreement, see title 3, section 905.

Fraud or mistake, see title 3, section 906.

Revision and reformation of contract for fraud or mistake, see title 3, sections 2711 to 2714.

Circumstances to be considered, see section 1878 of this title.

Usage, etc., see section 1888 of this title.

Conclusiveness of recitals in documents, see section 2006 of this title.

Alterations and erasures, see section 2032 of this title.

1875. Construction of language relates to place where used.—The language of a writing is to be interpreted according to the meaning it bears in the place of its execution, unless the parties have reference to a different place.

CROSS-REFERENCE

Interpretation of contract, lex loci, see title 3, section 912.

1876. Construction of statutes and instruments, general rule.—In the construction of a statute or instrument, the office of the judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all.

CROSS-REFERENCES

Giving effect to all of contract, see title 3, section 907.

Interpretation giving effect preferred, see title 3, section 2863.

1877. The intention of the legislature or parties.—In the construction of a statute the intention of the legislature, and in the construction of an instrument the intention of the parties, is to be pursued, if possible; and when a general and a particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it.

CROSS-REFERENCE

Construction of this title, see sections 4, 7, and 8 of this title.

1878. The circumstances to be considered.—For the proper construction of an instrument, the circumstances under which it was made, including the situation of the subject of the instrument, and of the parties to it, may also be shown, so that the judge be placed in the position of those whose language he is to interpret.

CROSS-REFERENCES

Surrounding circumstances may be shown, see title 3, section 913.
Usage, see section 1888 of this title.

1879. Terms to be construed in their general acceptation.—The terms of a writing are presumed to have been used in their primary and general acceptation, but evidence is nevertheless admissible that they have a local, technical, or otherwise peculiar signification, and were so used and understood in the particular instance, in which case the agreement must be construed accordingly.

CROSS-REFERENCES

Technical words, construction, see section 7 of this title; and title 3, section 911.

Construction of ordinary words and phrases, see section 7 of this title; and title 3, section 910.

Written instrument construed as understood by parties, see section 1883 of this title.

Signification of terms, compare title 3, sections 910 and 911.

1880. Written words control those printed in a blank form.—When an instrument consists partly of written words and partly of a printed form, and the two are inconsistent, the former controls the latter.

CROSS-REFERENCE

Compare title 3, section 917.

1881. Persons skilled may testify, to decipher characters.—When the characters in which an instrument is written are difficult to be deciphered, or the language of the instrument is not understood by the court, the evidence of persons skilled in deciphering the characters, or who understand the language, is admissible to declare the characters or the meaning of the language.

1882. Of two constructions, which preferred.—When the terms of an agreement have been intended in a different sense by the different parties to it, that sense is to prevail against either party in which he supposed the other understood it, and when different constructions of a provision are otherwise equally proper, that is to be taken which is most favorable to the party in whose favor the provision was made.

CROSS-REFERENCE

Compare title 3, sections 915 and 920.

1883. A written instrument construed as understood by parties.—A written notice, as well as every other writing, is to be construed according to the ordinary acceptation of its terms. Thus a notice to the drawers or indorsers of a bill of exchange or promissory note, that it has been protested for want of acceptance or payment, must be held to import that the same has been duly presented for acceptance or payment and the same refused, and that the holder looks for payment to the person to whom the notice is given.

CROSS-REFERENCE

Ordinary acceptation, see section 1879 of this title; and title 3, section 910.

1884. Construction in favor of natural right preferred.—When a statute or instrument is equally susceptible of two interpretations, one in favor of natural right, and the other against it, the former is to be adopted.

1885. Material allegation only to be proved.—None but a material allegation need be proved.

CROSS-REFERENCE

Material allegation, defined, see section 261 of this title.

1886. Evidence confined to material allegation.—Evidence must correspond with the substance of the material allegations and be relevant to the question in dispute. Collateral questions must therefore be avoided. It is, however, within the discretion of the court to permit inquiry into collateral fact, when such fact is directly connected with the question in dispute, and is essential to its proper determination or when it affects the credibility of a witness.

CROSS-REFERENCE

Variance, see sections 271 et seq., of this title.

1887. Affirmative only to be proved.—Each party must prove his own affirmative allegations. Evidence need not be given in support of a negative allegation, except when such negative allegation is an essential part of the statement of the right or title on which the cause of action or defense is founded, nor even in such case when the allegation is a denial of the existence of a document, the custody of which belongs to the opposite party.

CROSS-REFERENCE

Burden of proof, see section 2031 of this title.

1888. Facts which may be proved on trial.—In conformity with the preceding provisions, evidence may be given upon a trial of the following facts:

1. The precise fact in dispute;
2. The act, declaration, or omission of a party, as evidence against such party;
3. An act or declaration of another, in the presence and within the observation of a party, and his conduct in relation thereto;
4. The act or declaration, verbal or written, of a deceased person in respect to the relationship, birth, marriage, or death of any person related by blood or marriage to such deceased person; the act or declaration of a deceased person done or made against his interest in respect to his real property; and also in criminal actions, the act or declaration of a dying person, made under a sense of impending death, respecting the cause of his death;

5. After proof of a partnership or agency, the act or declaration of a partner or agent of the party, within the scope of the partnership or agency, and during its existence. The same rule applies to the act or declaration of a joint owner, joint debtor, or other person jointly interested with the party;

6. After proof of a conspiracy, the act or declaration of a conspirator against his coconspirator, and relating to the conspiracy;

7. The act, declaration, or omission forming part of a transaction as explained in section 1867 of this title;

8. The testimony of a witness deceased, or out of the jurisdiction, or unable to testify, given in a former action between the same parties, relating to the same matter;

9. The opinion of a witness respecting the identity or handwriting of a person, when he has knowledge of the person or handwriting; his opinion on a question of science, art, or trade, when he is skilled therein;

10. The opinion of a subscribing witness to a writing, the validity of which is in dispute, respecting the mental sanity of the signer, and the opinion of an intimate acquaintance respecting the mental sanity of a person, the reason for the opinion being given;

11. Common reputation existing previous to the controversy, respecting facts of a public or general interest more than thirty years old, and in cases of pedigree and boundary;

12. Usage, to explain the true character of an act, contract, or instrument, where such true character is not otherwise plain; but usage is never admissible, except as an instrument of interpretation;

13. Monuments and inscriptions in public places, as evidence of common reputation; and entries in family Bibles, or other family books or charts; engravings on rings, family portraits, and the like, as evidence of pedigree;

14. The contents of a writing, when oral evidence thereof is admissible;

15. Any other facts from which the facts in issue are presumed or are logically inferable;

16. Such facts as serve to show the credibility of a witness, as explained in section 1864 of this title.

CROSS-REFERENCES

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Explaining contract by reference to circumstances, see title 3, section 913.

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ARTICLE 3.—KINDS AND DEGREES OF EVIDENCE

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I. CONCLUSIVE OR UNANSWERABLE EVIDENCE

2021. Conclusive or unanswerable evidence.

A. KNOWLEDGE OF THE COURT

1891. Certain facts of general notoriety assumed to be true; specification of such facts.—Courts take judicial notice of the following facts:

1. The true signification of all English words and phrases, and of all legal expressions;

2. Whatever is established by law;

3. Public and private official acts of the legislative, executive, and judicial departments of the United States;

4. The seals of all the courts of the Canal Zone and of the United States;

5. The accession to office and the official signatures and seals of office of the principal officers of government in the legislative, executive, and judicial departments of the United States;

6. The existence, title, national flag, and seal of every state or sovereign recognized by the executive power of the United States;

7. The seals of courts of admiralty and maritime jurisdiction, and of notaries public;

8. The laws of nature, the measure of time, and the geographical divisions and political history of the world.

In all these cases the court may resort for its aid to appropriate books or documents of reference.

CROSS-REFERENCE

Declaring knowledge of court to jury, see section 2182 of this title.

B. WITNESSES

1901. Witnesses defined.—A witness is a person whose declaration under oath is received as evidence for any purpose, whether such declaration be made on oral examination, or by deposition or affidavit.

CROSS-REFERENCES

Compare section 2061 of this title.
Rules of examination, see sections 1863, and 2111 et seq., of this title.

1902. All persons capable of perception and communication may be witnesses.—All persons, without exception, otherwise than is specified in the two sections next following, who, having organs of sense, can perceive, and, perceiving, can make known their perceptions to others, may be witnesses. Therefore, neither parties nor other persons who have an interest in the event of an action or proceeding are excluded; nor those who have been convicted of crime; nor persons on account of their opinions on matters of religious belief; although, in every case the credibility of the witness may be drawn in question, as provided in section 1864 of this title.

1903. Persons who cannot testify.—The following persons cannot be witnesses:

1. Those who are of unsound mind at the time of their production for examination.

2. Children under ten years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

3. Parties or assignors of parties to an action or proceeding, or persons in whose behalf an action or proceeding is prosecuted, against an executor or administrator upon a claim, or demand against

the estate of a deceased person, as to any matter or fact occurring before the death of such deceased person.

1904. Cases in which witnesses may not be examined.—There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person cannot be examined as a witness in the following cases:

1. Husband and wife.—A husband cannot be examined for or against his wife without her consent; nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other; or in an action brought by husband or wife against another person for the alienation of the affections of either husband or wife or in an action for damages against another person for adultery committed by either husband or wife.

2. Attorney and client.—An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment; nor can an attorney's secretary, stenographer, or clerk be examined, without the consent of his employer, concerning any fact the knowledge of which has been acquired in such capacity.

3. Confessor and confessant.—A clergyman or priest cannot, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

4. Physician and patient.—A licensed physician or surgeon cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient, which was necessary to enable him to prescribe or act for the patient: *Provided, however*, That after the death of the patient, the executor of his will, or the administrator of his estate, or the surviving spouse of the deceased, or, if there be no surviving spouse, the children, of the deceased personally, or, if minors, by their guardian, may give such consent, in any action or proceeding brought to recover damages on account of the death of the patient: *Provided further*, That where any person brings an action to recover damages for personal injuries, such action shall be deemed to constitute a consent by the person bringing such action that any physician who has prescribed for or treated said person and whose testimony is material in said action shall testify: *And provided further*, That the bringing of an action to recover for the death of a patient, by the executor of his will, or by the administrator of his estate, or by the surviving spouse of the deceased, or if there be no surviving spouse, by the children personally, or, if minors, by their guardian, shall constitute a consent by such executor, administrator, surviving spouse, or children or guardian, to the testimony of any physician who attended said deceased.

5. PUBLIC OFFICER.—A public officer cannot be examined as to communications made to him in official confidence, when the public interest would suffer by the disclosure.

1905. Judge or a juror may be a witness.—The judge himself, or any juror, may be called as a witness by either party; but in such case it is in the discretion of the court or judge to order the trial to be postponed or suspended, and to take place before another judge or jury.

CROSS-REFERENCE

Magistrate as witness, see section 682 of this title.

1906. When an interpreter to be sworn.—When a witness does not understand and speak the English language, an interpreter must be sworn to interpret for him. Any person, a resident of the proper division or subdivision, may be summoned by any court or judge to appear before such court or judge to act as interpreter in any action or proceeding. The summons must be served and returned in like manner as a subpena. Any person so summoned who fails to attend at the time and place named in the summons, is guilty of a contempt.

CROSS-REFERENCES

Contempt, see section 1163 of this title.
Subpena, see sections 2041 et seq., of this title.

C. WRITINGS IN GENERAL

1911. Writings, public and private.—Writings are of two kinds:
1. Public; and,
2. Private.

1912. Public writings defined.—Public writings are:
1. The written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of the Canal Zone, of the United States, of a State of the United States, or of a foreign country;
2. Public records, kept in the Canal Zone, of private writings.

1913. All others private.—All other writings are private.

D. PUBLIC WRITINGS

1921. Public officers bound to give copies.—Every public officer having the custody of a public writing, which a citizen has a right to inspect, is bound to give him, on demand, a certified copy of it, on payment of the legal fees therefor, and such copy is admissible as evidence in like cases and with like effect as the original writing.

1922. Four kinds of public writings.—Public writings are divided into four classes:
1. Laws;
2. Judicial records;
3. Other official documents;
4. Public records, kept in the Canal Zone, of private writings.

CROSS-REFERENCE

Public writings defined, see section 1912 of this title.

1923. Written laws defined.—A written law is that which is promulgated in writing, and of which a record is in existence.

1924. Public and private statutes defined.—Statutes are public or private. A private statute is one which concerns only certain designated individuals, and affects only their private rights. All other statutes are public, in which are included statutes creating or affecting corporations.

1925. Unwritten law defined.—Unwritten law is the law not promulgated and recorded, as mentioned in section 1923 of this title, but which is, nevertheless, observed and administered in the courts of the United States. It has no certain repository, but is collected from the reports of the decisions of the courts, and the treatises of learned men.

1926. Books containing laws presumed to be correct.—Books printed or published under the authority of a State or foreign country, and purporting to contain the statutes, code, or other written law of such State or country, or proved to be commonly admitted in the tribunals of such State or country as evidence of the written law thereof, are admissible in the Canal Zone as evidence of such law.

CROSS-REFERENCES

Resort to books, see section 1891 of this title.
Authority of books, see section 2007 of this title.

1927. Evidence of foreign law.—A copy of the written law or other public writing of any State or country, attested by the certificate of the officer having charge of the original, under the public seal of the State or country, is admissible as evidence of such law or writing.

CROSS-REFERENCE

Manner of proving foreign official documents, see section 1944 of this title.

1928. Other evidence of laws of States.—The oral testimony of witnesses skilled therein is admissible as evidence of the unwritten law of a State or foreign country, as are also printed and published books of reports of decisions of the courts of such State or country, or proved to be commonly admitted in such courts.

1929. Recitals in statutes, how far evidence.—The recitals in a public statute are conclusive evidence of the facts recited for the purpose of carrying it into effect, but no further. The recitals in a private statute are conclusive evidence between parties who claim under its provisions, but no further.

1930. Judicial record defined.—A judicial record is the record or official entry of the proceedings in a court of justice, or of the official act of a judicial officer, in an action or special proceeding.

CROSS-REFERENCE

Judgment roll, see section 547 of this title.

1931. Record, how authenticated as evidence.—A judicial record of the Canal Zone, or of the United States, may be proved by the production of the original, or by a copy thereof, certified by the clerk or other person having a legal custody thereof. That of a State may be proved by the attestation of the clerk and the seal of the court annexed, if there be a clerk and seal, together with a certificate of the chief judge or presiding magistrate, that the attestation is in due form.

CROSS-REFERENCE

Certificate, see section 1949 of this title.

1932. Record of a foreign country, how authenticated.—A judicial record of a foreign counry may be proved by the attestation of the clerk, with the seal of the court annexed, if there be a clerk and a seal, or of the legal keeper of the record with the seal of his office annexed, if there be a seal, together with a certificate of the chief judge, or presiding magistrate, that the person making the attestation is the clerk of the court or the legal keeper of the record, and, in either case, that the signature of such person is genuine, and that the attestation is in due form. The signature of the chief judge or presiding magistrate must be authenticated by the certificate of the minister or ambassador, or a consul, vice consul, or consular agent of the United States in such foreign country.

CROSS-REFERENCE

Certificate, see section 1949 of this title.

1933. Copy of a foreign record, when evidence.—A copy of the judicial record of a foreign country is also admissible in evidence, upon proof—

1. That the copy offered has been compared by the witness with the original, and is an exact transcript of the whole of it;
2. That such original was in the custody of the clerk of the court or other legal keeper of the same; and
3. That the copy is duly attested by a seal which is proved to be the seal of the court where the record remains, if it be the record of a court; or if there be no such seal, or if it be not a record of a court, by the signature of the legal keeper of the original.

1934. Effect of a judgment upon rights in various cases.—The effect of a judgment or final order in an action or special proceeding before a court or judge of the Canal Zone, is as follows:

1. In case of a judgment or order against a specific thing, or in respect to the probate of a will, or the administration of the estate of a decedent, or in respect to the personal, political, or legal condition or relation of a particular person, the judgment or order is conclusive upon the title to the thing, the will, or administration, or the condition or relation of the person.
2. In other cases, the judgment or order is, in respect to the matter directly adjudged, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing under the same title and in the same capacity, provided they have notice, actual or constructive, of the pendency of the action or proceeding.

CROSS-REFERENCES

Surety bound by record, see section 1938 of this title.
Validity of judgment founded on service by publication, see section 168 of this title.
Probate and administration, etc., see section 1257 of this title.
Presumption that judicial record correctly determines rights, see section 2007 of this title.
Jurisdiction necessary in a judgment, see section 1943 of this title.

1935. Effect of other judicial orders, when conclusive.—Other judicial orders of a court or judge of the Canal Zone, create a disputable presumption, according to the matter directly determined, between the same parties and their representatives and successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing under the same title and in the same capacity.

CROSS-REFERENCES

Disputable presumptions, see section 2007 of this title.
Conclusiveness of orders, see section 2006 of this title.

1936. Where parties are to be deemed the same.—The parties are deemed to be the same when those between whom the evidence is offered were on opposite sides in the former case, and a judgment or other determination could in that case have been made between them alone, though other parties were joined with both or either.

1937. What deemed adjudged in a judgment.—That only is deemed to have been adjudged in a former judgment which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

1938. Where sureties bound, principal is also.—Whenever, pursuant to sections 1934 to 1937 of this title, a party is bound by a record, and such party stands in the relation of a surety for another, the latter is also bound from the time that he has notice of the action or proceeding, and an opportunity at the surety's request to join in the defense.

1939. Record of State, its effect.—The effect of a judicial record of a State is the same in the Canal Zone as in the State where it was made, except that it can only be enforced here by an action or special proceeding, and except, also, that the authority of a guardian or committee, or of an executor or administrator, does not extend beyond the jurisdiction of the government under which he was invested with his authority.

CROSS-REFERENCE

Effect of foreign judgment, see section 1941 of this title.

1940. Record of a court of admiralty.—The effect of the judicial record of a court of admiralty of a foreign country is the same as if it were the record of a court of admiralty of the United States.

1941. Effect of a foreign judgment.—A final judgment of any other tribunal of a foreign country having jurisdiction, according to the laws of such country, to pronounce the judgment, shall have the same effect as in the country where rendered, and also the same effect as final judgments rendered in the Canal Zone.

CROSS-REFERENCE

Effect of a judicial record of a State, see section 1939 of this title.

1942. Manner of impeaching a record.—Any judicial record may be impeached by evidence of a want of jurisdiction in the court or judicial officer, of collusion between the parties, or of fraud in the party offering the record, in respect to the proceedings.

1943. The jurisdiction necessary in a judgment.—The jurisdiction sufficient to sustain a record is jurisdiction over the cause, over the parties, and over the thing, when a specific thing is the subject of the judgment.

1944. Manner of proving other official documents.—Other official documents may be proved, as follows:

1. Acts of the executive of the Canal Zone, by the records of his office; and of the United States, by the records of the state department of the United States, certified by the heads of those departments, respectively. They may also be proved by public documents printed by order of the executive or Congress, or either house thereof.
2. The proceedings of Congress, by the journals of that body, or either house thereof, or by published statutes or resolutions, or by copies certified by the clerk or printed by their order.
3. The acts of the executive, or the proceedings of the legislature of a State, in the same manner.
4. The acts of the executive, or the proceedings of the legislature of a foreign country, by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some public act of the executive of the United States.
5. Documents of any other class in the Canal Zone, by the original, or by a copy, certified by the legal keeper thereof.
6. Documents of any other class in a State, by the original, or by a copy, certified by the legal keeper thereof, together with the certificate of the secretary of state, judge of the supreme, superior, or county court, or mayor of a city of such State, that the copy is duly certified by the officer having the legal custody of the original.
7. Documents of any other class in a foreign country, by the original, or by a copy, certified by the legal keeper thereof, with a certificate, under seal, of the country or sovereign, that the document is a valid and subsisting document of such country, and the copy is duly certified by the officer having the legal custody of the original.
8. Documents in the departments of the United States Government, by the certificates of the legal custodian thereof.

CROSS-REFERENCES

Certificate, see section 1949 of this title.
Evidence of foreign laws, see sections 1926 to 1928 of this title.

1945. Public record of private writing evidence.—A public record of a private writing may be proved by the original record, or by a copy thereof, certified by the legal keeper of the record.

1946. Entries in official books prima facie evidence.—Entries in public or other official books or records made in the performance of his duty by a public officer of the Canal Zone, or by another person in the performance of a duty specially enjoined by law, are prima facie evidence of the facts stated therein.

CROSS-REFERENCES

Official documents, proof of, see section 1944 of this title.
Entries by officers, see section 1951 of this title.

1947. Justice's judgment in States, how proved.—A transcript from the record or docket of a justice of the peace of a State, of a judgment rendered by him, of the proceedings in the action before the judgment, of the execution and return, if any, subscribed by the justice and verified in the manner prescribed in the section next following, is admissible evidence of the facts stated therein.

1948. Same.—There must be attached to the transcript a certificate of the justice that the transcript is in all respects correct, and that he had jurisdiction of the action, and also a further certificate of the clerk or prothonotary of the county in which the justice resided at the time of rendering the judgment, under the seal of the county, or the seal of the court of common pleas or county court thereof, certifying that the person subscribing the transcript was, at the date of the judgment, a justice of the peace in the county, and that the signature is genuine. Such judgment, proceedings, and jurisdiction may also be proved by the justice himself, on the production of his docket, or by a copy of the judgment, and his oral examination as a witness.

CROSS-REFERENCES

Compare section 1872 of this title.
Certificate, see section 1949 of this title.

1949. Contents of other official certificates.—Whenever a copy of a writing is certified for the purpose of evidence, the certificate must state in substance that the copy is a correct copy of the original, or of a specified part thereof, as the case may be. The certificate must be under the official seal of the certifying officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

CROSS-REFERENCE

Seal to certificate, see section 25 of this title.

1950. Provisions in relation to public writings of States apply to those of United States or Territories.—The provisions of the preceding sections of this article applicable to the public writings of a State, are equally applicable to the public writings of the United States or a Territory of the United States.

1951. Entries made by officers or boards prima facie evidence.—An entry made by an officer, or board of officers, or under the direction and in the presence of either, in the course of official duty, is prima facie evidence of the facts stated in such entry.

CROSS-REFERENCE

Entries by officers as evidence, see section 1916 of this title.

1952. Deed evidence of transfer.—A deed of conveyance of real property, purporting to have been executed by a proper officer in pursuance of legal process of the district court, or the record of such deed, or a certified copy of such record is prima facie evidence that the property or interest therein described was thereby conveyed to the grantee named in such deed.

E. PRIVATE WRITINGS

1961. Private writings classified.—Private writings are either—
1. Sealed; or
2. Unsealed.

1962. Seal defined.—A seal is a particular sign made to attest, in the most formal manner, the execution of an instrument.

1963. Seal, what is, and how made.—A public seal in the Canal Zone is a stamp or impression made by a public officer with an instrument provided by law, to attest the execution of an official or public document, upon the paper, or upon any substance attached to the paper, which is capable of receiving a visible impression. A private seal may be made in the same manner by any instrument, or it may be made by the scroll of a pen, or by writing the word "seal" against the signature of the writer. A scroll or other sign, made in a State or foreign country, and there recognized as a seal, must be so regarded in the Canal Zone.

1964. Effect of a seal.—There shall be no difference hereafter, in the Canal Zone, between sealed and unsealed writings. A writing under seal may therefore be changed, or altogether discharged by a writing not under seal.

CROSS-REFERENCE

Corresponding provisions, see title 3, section 890.

1965. Execution of an instrument defined.—The execution of an instrument is the subscribing and delivering it, with or without affixing a seal.

1966. Compromise of a debt without seal good.—An agreement, in writing, without a seal, for the compromise or settlement of a debt, is as obligatory as if a seal were affixed.

CROSS-REFERENCE

Proceedings on offer of defendant to compromise, see section 911 of this title.

1967. Subscribing witness defined.—A subscribing witness is one who sees a writing executed or hears it acknowledged, and at the request of the party thereupon signs his name as a witness.

1968. Books, maps, etc., how far evidence.—Historical works, books of science or art, and published maps or charts, when made by persons indifferent between the parties, are prima facie evidence of facts of general notoriety and interest.

CROSS-REFERENCES

Books as aid to court, see section 1891 of this title.
Books as evidence, see section 1926 of this title.
Presumptions as to books, see section 2007 of this title.

1969. Original writing to be produced or accounted for.—The original writing must be produced and proved, except as provided in sections 1872 and 1945 of this title. If it has been lost, proof of the loss must first be made before evidence can be given of its contents. Upon such proof being made, together with proof of the due execution of the writing, its contents may be proved by a copy, or by a recital of its contents in some authentic document, or by the recollection of a witness, as provided in section 1872.

CROSS-REFERENCE

Contents of writing, how proved, see section 1872 of this title.

1970. When in possession of adverse party, notice to be given.—If the writing be in the custody of the adverse party, he must first have reasonable notice to produce it. If he then fail to do so, the contents of the writing may be proved as in case of its loss. But the notice to produce it is not necessary where the writing is itself a notice, or where it has been wrongfully obtained or withheld by the adverse party.

CROSS-REFERENCES

Contents of writing, how proved, see section 1872 of this title.
Demanding inspection of writing, see section 921 of this title.

1971. Writings called for and inspected may be withheld.—Though a writing called for by one party is produced by the other, and is thereupon inspected by the party calling for it, he is not obliged to produce it as evidence in the case.

CROSS-REFERENCE

Writings shown to witness, see section 2123 of this title.

1972. Writing, how proved.—Any writing may be proved either—

1. By anyone who saw the writing executed;
2. By evidence of the genuineness of the handwriting of the maker; or
3. By a subscribing witness.

CROSS-REFERENCES

On contest of will, see section 1234 of this title.
Handwriting, proof of instrument by, see title 3, sections 504 and 505.
Proof of instrument by subscribing witness, see title 3, sections 501 to 503.
Instrument, how proved where not acknowledged, see title 3, section 501.
Instrument, how proved where acknowledged, see section 1980 of this title.

1973. Other witnesses may also testify.—If the subscribing witness denies or does not recollect the execution of the writing, its execution may still be proved by other evidence.

1974. When evidence of execution not necessary.—Where, however, evidence is given that the party against whom the writing is offered has at any time admitted its execution no other evidence of the execution need be given, when the instrument is one mentioned in section 1977 of this title, or one produced from the custody of the adverse party, and has been acted upon by him as genuine.

1975. Evidence of handwriting.—The handwriting of a person may be proved by any one who believes it to be his, and who has seen him write, or has seen writings purporting to be his, upon which he has acted or been charged, and who has thus acquired a knowledge of his handwriting.

1976. Evidence of handwriting by comparison.—Evidence respecting the handwriting may also be given by a comparison, made by the witness or the jury, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge.

1977. Same; when writing more than thirty years old.—Where a writing is more than thirty years old, the comparisons may be made with writings purporting to be genuine, and generally respected and acted upon as such, by persons having an interest in knowing the fact.

CROSS-REFERENCE

Presumption as to ancient writing, see section 2007 of this title.

1978. Entries of decedents; evidence in specified cases.—The entries and other writings of a decedent, made at or near the time of the transaction, and in a position to know the facts stated therein, may be read as prima facie evidence of the facts stated therein, in the following cases—

1. When the entry was made against the interest of the person making it.
2. When it was made in a professional capacity and in the ordinary course of professional conduct.
3. When it was made in the performance of a duty specially enjoined by law.

CROSS-REFERENCE

Altered writings, see section 2032 of this title.

1979. Copies of entries also allowed.—When an entry is repeated in the regular course of business, one being copied from another at or near the time of the transaction, all the entries are equally regarded as originals.

1980. Private writings, how proved.—Every private writing, except last wills and testaments, may be acknowledged or proved and certified in the manner provided in chapter 22 of title 3, and the certificate of such acknowledgment or proof is prima facie evidence of the execution of the writing, in the same manner as if it were a conveyance of real property.

CROSS-REFERENCE

For chapter 22, see title 3, sections 491 et seq.

1981. Removal of public records.—The record of a conveyance of real property, or any other record, a transcript of which is admissible in evidence, must not be removed from the office where it is kept, except upon the order of a court, in cases where the inspection of the record is shown to be essential to the just determination of the cause or proceeding pending, or where the court is held in the same building with such office.

1982. Instrument conveying or affecting real property may be read in evidence.—Every instrument conveying or affecting real property, acknowledged or proved and certified, as provided in Title 3, The Civil Code, may together with the certificate of acknowledgment or proof, be read in evidence in an action or proceeding, without further proof; also, the original record of such conveyance or instrument thus acknowledged or proved, or a certified copy of the record of such conveyance or instrument thus acknowledged or proved, may be read in evidence, with the like effect as the original instrument, without further proof.

F. MATERIAL OBJECTS PRESENTED TO THE SENSES OTHER THAN WRITINGS

1991. Material objects.—Whenever an object, cognizable by the senses, has such a relation to the fact in dispute as to afford reasonable grounds of belief respecting it, or to make an item in the sum of the evidence, such object may be exhibited to the jury, or its existence, situation, and character may be proved by witnesses. The admission of such evidence must be regulated by the sound discretion of the court.

G. INDIRECT EVIDENCE; INFERENCES AND PRESUMPTIONS

2001. Indirect evidence classified.—Indirect evidence is of two kinds—

1. Inferences; and
2. Presumptions.

2002. Inference defined.—An inference is a deduction which the reason of the jury makes from the facts proved, without an express direction of law to that effect.

2003. Presumption defined.—A presumption is a deduction which the law expressly directs to be made from particular facts.

2004. When an inference arises.—An inference must be founded—

1. On a fact legally proved; and
2. On such a deduction from that fact as is warranted by a consideration of the usual propensities or passions of men, the particular propensities or passions of the person whose act is in question, the course of business, or the course of nature.

2005. Presumptions may be controverted, when.—A presumption, unless declared by law to be conclusive, may be controverted by other evidence, direct or indirect; but unless so controverted the jury are bound to find according to the presumption.

2006. Specification of conclusive presumptions.—The following presumptions, and no others, are deemed conclusive:

1. A malicious and guilty intent, from the deliberate commission of an unlawful act, for the purpose of injuring another;

2. The truth of the facts recited, from the recital in a written instrument between the parties thereto, or their successors in interest by a subsequent title; but this rule does not apply to the recital of a consideration;

3. Whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he cannot, in any litigation arising out of such declaration, act, or omission, be permitted to falsify it;

4. A tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation;

5. The issue of a wife cohabiting with her husband, who is not impotent, is indisputably presumed to be legitimate;

6. The judgment or order of a court, when declared by this title to be conclusive; but such judgment or order must be alleged in the pleadings if there be an opportunity to do so; if there be no such opportunity, the judgment or order may be used as evidence;

7. Any other presumption which, by statute, is expressly made conclusive.

CROSS-REFERENCES

Presumption as to legitimacy of children, see section 2007 of this title; and title 3, sections 162 and 163.

Judgments, etc., see section 1934 of this title.

Conclusiveness of orders, see section 1935 of this title.

Pleading judgment, see section 255 of this title.

Conclusive evidence generally, see section 2021 of this title.

2007. All other presumptions may be controverted.—All other presumptions are satisfactory, if uncontradicted. They are denominated disputable presumptions, and may be controverted by other evidence. The following are of that kind:

1. That a person is innocent of crime or wrong;

2. That an unlawful act was done with an unlawful intent;

3. That a person intends the ordinary consequence of his voluntary act;

4. That a person takes ordinary care of his own concerns;

5. That evidence wilfully suppressed would be adverse if produced;

6. That higher evidence would be adverse from inferior being produced;

7. That money paid by one to another was due to the latter;

8. That a thing delivered by one to another belonged to the latter;

9. That an obligation delivered up to the debtor has been paid;

10. That former rent or installments have been paid when a receipt for latter is produced;

11. That things which a person possesses are owned by him;

12. That a person is the owner of property from exercising acts of ownership over it, or from common reputation of his ownership;

13 That a person in possession of an order on himself for the payment of money, or the delivery of a thing, has paid the money or delivered the thing accordingly;

14. That a person acting in a public office was regularly appointed to it;

15. That official duty has been regularly performed;

16. That a court or judge, acting as such, whether in the Canal Zone or any State or country, was acting in the lawful exercise of his jurisdiction;

17. That a judicial record, when not conclusive, does still correctly determine or set forth the rights of the parties;

18. That all matters within an issue were laid before the jury and passed upon by them;

19. That private transactions have been fair and regular;

20. That the ordinary course of business has been followed;

21. That a promissory note or bill of exchange was given or indorsed for a sufficient consideration;

22. That an indorsement of a negotiable promissory note or bill of exchange was made at the time and place of making the note or bill;

23. That a writing is truly dated;

24. That a letter duly directed and mailed was received in the regular course of the mail;

25. Identity of person from identity of name;

26. That a person not heard from in seven years is dead;

27. That acquiescence followed from a belief that the thing acquiesced in was conformable to the right or fact;

28. That things have happened according to the ordinary course of nature and ordinary habits of life;

29. That persons acting as copartners have entered into a contract of copartnership;

30. That a man and woman deporting themselves as husband and wife have entered into a lawful contract of marriage;

31. That a child borne in lawful wedlock is legitimate;

32. That a thing once proved to exist continues as long as is usual with things of that nature;

33. That the law has been obeyed;

34. That a document or writing more than thirty years old is genuine, when the same has been since generally acted upon as genuine, by persons having an interest in the question, and its custody has been satisfactorily explained;

35. That a printed and published book, purporting to be printed or published by public authority, was so printed or published;

36. That a printed and published book, purporting to contain reports of cases adjudged in the tribunals of the State or country where the book is published, contains correct reports of such cases;

37. That a trustee or other person, whose duty it was to convey real property to a particular person, has actually conveyed to him when such presumption is necessary to perfect the title of such person or his successor in interest;

38. That there was a good and sufficient consideration for a written contract;

39. When two persons perish in the same calamity, such as a wreck, a battle, or a conflagration, and it is not shown who died first, and there are no particular circumstances from which it can be inferred,

survivorship is presumed from the probabilities resulting from the strength, age, and sex, according to the following rules:

First. If both of those who have perished were under the age of fifteen years, the older is presumed to have survived;

Second. If both were above the age of sixty, the younger is presumed to have survived;

Third. If one be under fifteen and the other above sixty, the former is presumed to have survived;

Fourth. If both be over fifteen and under sixty, and the sexes be different, the male is presumed to have survived; if the sexes be the same, then the older;

Fifth. If one be under fifteen, or over sixty, and the other between those ages, the latter is presumed to have survived.

CROSS-REFERENCE

Other presumptions, see index-head Presumptions.

H. INDISPENSABLE EVIDENCE

2011. Indispensable evidence, what.—The law makes certain evidence necessary to the validity of particular acts, or the proof of particular facts.

2012. To prove perjury and treason, more than one witness required.—Perjury and treason must be proved by testimony of more than one witness. Treason by the testimony of two witnesses to the same overt act; and perjury by the testimony of two witnesses, or one witness and corroborating circumstances.

CROSS-REFERENCES

Two witnesses for probate of lost will, see section 1262 of this title.
Number of witnesses for perjury and treason, see section 1861 of this title.

2013. Will to be in writing.—A last will and testament, except a nuncupative will, is invalid, unless it be in writing and executed with such formalities as are required by law. When, therefore, such a will is to be shown, the instrument itself must be produced, or secondary evidence of its contents be given.

CROSS-REFERENCES

Execution of will, general provisions, see title 3, sections 525 et seq.
Lost or destroyed will, probate of, see sections 1261 to 1264 of this title.

2014. Will, how revoked.—A written will cannot be revoked or altered otherwise than as provided in Title 3, The Civil Code.

CROSS-REFERENCE

Revocation or alteration of will, see title 3, sections 539 et seq.

2015. Transfer of real property to be in writing.—No estate or interest in real property, other than for leases for a term not exceeding one year, nor any trust or power over or concerning it, or in any manner relating thereto, can be created, granted, assigned, surrendered, or declared, otherwise than by operation of law, or a conveyance or other instrument in writing, subscribed by the party creating, granting, assigning, surrendering, or declaring the same, or by his lawful agent thereunto authorized by writing.

CROSS-REFERENCE

Grant, what, see title 3, section 454.

2016. Preceding section not to extend to certain cases.—The next preceding section must not be construed to affect the power of a testator in the disposition of his real property by a last will and testament, nor to prevent any trust from arising or being extinguished by implication or operation of law, nor to abridge the power of any court to compel the specific performance of an agreement, in case of part performance thereof.

CROSS-REFERENCE

Specific performance, see title 3, sections 2701 et seq.

2017. Agreement not in writing, when invalid.—In the following cases the agreement is invalid, unless the same or some note or memorandum thereof be in writing, and subscribed by the party charged, or by his agent. Evidence, therefore, of the agreement, cannot be received without the writing or secondary evidence of its contents:

1. An agreement that by its terms is not to be performed within a year from the making thereof;
2. A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in section 2074 of title 3;
3. An agreement made upon consideration of marriage other than a mutual promise to marry;
4. A contract to sell or a sale of any goods or choses in action of the value of $50 or upwards, unless the buyer accepts part of the goods or choses in action so contracted to be sold or sold, and actually receives the same, or gives something in earnest to bind the contract, or in part payment;
5. An agreement for the leasing for a longer period than one year, or for the sale of real property, or of an interest therein; and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent is in writing, subscribed by the party sought to be charged;
6. An agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or a commission;
7. An agreement which by its terms is not to be performed during the lifetime of the promisor, or an agreement to devise or bequeath any property, or to make any provision for any person by will.

CROSS-REFERENCES

Corresponding provision, see title 3, section 886.
Agreement for sale of goods, see title 3, section 984.
Parol evidence to explain writing, see section 1874 of this title.
Guaranty to be in writing, see title 3, sections 2073 and 2074.
Guaranty by executor, see section 1561 of this title.
Preventing contract being put in writing by fraud, see title 3, section 885.
Transfer of interest in trust to be by written instrument, see title 3, section 452.

2018. Representation of credit by writing.—No evidence is admissible to charge a person upon a representation as to the credit of a third person, unless such representation, or some memorandum thereof, be in writing, and either subscribed by or in the handwriting of the party to be charged.

I. CONCLUSIVE OR UNANSWERABLE EVIDENCE

2021. Conclusive or unanswerable evidence.—No evidence is by law made conclusive or unanswerable, unless so declared by this title.

ARTICLE 4.—PRODUCTION OF EVIDENCE

A. BY WHOM TO BE PRODUCED

Sec.
2031. Evidence to be produced by whom.
2032. Writing altered, who to explain.

B. MEANS OF PRODUCTION

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2042. Subpena, how issued.
2043. Subpena, how served.
2044. How, if witness be concealed.
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2061. Testimony, in what mode taken.
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G. MANNER OF TAKING DEPOSITIONS WITHIN THE CANAL ZONE

2101. Depositions may be taken before a judge, etc., upon notice to the adverse party.
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2103. Deposition in the Canal Zone to be used in States.
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2111. Order of proof, how regulated.
2112. What witnesses may be excluded.
2113. Court may control mode of interrogation.
2114. Direct examination and cross-examination defined.
2115. Leading question defined.
2116. When witness may refresh memory from notes.
2117. Cross-examination, as to what.
2118. Party producing witness, how far may impeach his credit.
2119. Witness, how examined; when reexamined.
2120. How impeached.
2121. Same.
2122. Evidence of good character, when allowed.
2123. Writing shown to witness may be inspected by adverse party.
2124. Examination of adverse party.

A. BY WHOM PRODUCED

2031. Evidence to be produced by whom.—The party holding the affirmative of the issue must produce the evidence to prove it; therefore, the burden of proof lies on the party who would be defeated if no evidence were given on either side.

CROSS-REFERENCES

Burden of proof, see section 1887 of this title.
Burden of proving want of consideration, see title 3, section 871.

2032. Writing altered, who to explain.—The party producing a writing as genuine which has been altered, or appears to have been altered, after its execution, in a part material to the question in dispute, must account for the appearance or alteration. He may show that the alteration was made by another, without his concurrence, or was made with the consent of the parties affected by it, or otherwise properly or innocently made, or that the alteration did not change the meaning or language of the instrument. If he do that, he may give the writing in evidence, but not otherwise.

B. MEANS OF PRODUCTION

2041. Subpena for witness defined.—The process by which the attendance of a witness is required is a subpena. It is a writ or order directed to a person and requiring his attendance at a particular time and place to testify as a witness. It may also require him to bring with him any books, documents, or other things under his control which he is bound by law to produce in evidence.

2042. Subpena, how issued.—A subpena is issued as follows:

1. To require attendance before a court, or at the trial of an issue therein, or upon the taking of a deposition in an action or proceeding pending therein, it is issued by the clerk of the court in which the action or proceeding is pending, under the seal of the court, or if there is no clerk or seal then by the judge or magistrate of such court;

2. To require attendance before a commissioner appointed to take testimony by a court of a foreign country, or of the United States, or of any State in the United States, before any officer or officers empowered by the laws of the United States to take testimony, it may be issued by the clerk of the district court in the division in which the witness is to be examined, under the seal of such court;

3. To require attendance out of court, in cases not provided for in subdivision 1, before a judge, magistrate, or other officer authorized to administer oaths or take testimony in any matter under the laws of the Canal Zone, it is issued by the judge, magistrate, or other officer before whom the attendance is required.

If the subpena is issued to require attendance before a court, or at the trial of an issue therein, it is issued by the clerk, as of course, upon the application of the party desiring it. If it is issued to require attendance before a commissioner or other officer upon the taking of a deposition, it must be issued by the clerk of the district court in the division wherein the attendance is required upon the order of such court or of the judge thereof, which order may be made ex parte.

CROSS-REFERENCE

Exoneration from arrest while obeying subpena, see section 2144 of this title.

2043. Subpena, how served.—The service of a subpena is made by showing the original and delivering a copy, or a ticket containing its substance, to the witness personally, giving or offering to him at the same time, if demanded by him, the fees to which he is entitled for travel to the place designated, and one day's attendance there. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. Such service may be made by any person.

2044. How, if witness be concealed.—If a witness is concealed in a building or vessel, so as to prevent the service of a subpena upon him, any court, judge, or magistrate or any officer issuing the subpena may, upon proof by affidavit of the concealment, and of the materiality of the witness, make an order that the marshal or constable serve the subpena; and the marshal or constable must serve it accordingly, and for that purpose may break into the building or vessel where the witness is concealed.

2045. Person present compelled to testify.—A person present in court, or before a judicial officer, may be required to testify in the same manner as if he were in attendance upon a subpena issued by such court or officer.

2046. Disobedience to subpena, how punished.—Disobedience to a subpena, or a refusal to be sworn, or to answer as a witness, or to subscribe an affidavit or deposition when required, may be punished as a contempt by the court issuing the subpena. When the subpena, in any such case, requires the attendance of the witness before an officer or commissioner out of court, it is the duty of such officer or commissioner to report any such disobedience or refusal to the court issuing the subpena; and the witness must not be punished for any refusal to answer a question or to subscribe an affidavit or deposition, unless, after a hearing upon notice, the court orders him to so answer or subscribe and then only for disobedience to such order. Any judge, magistrate, or other officer mentioned in subdivision 3 of section 2042 of this title, may report any such disobedience or refusal to the district court for the division in which such attendance was required; and such court thereupon has power, upon notice, to order the witness to perform the omitted act, and any refusal or neglect to comply with such order may be punished as a contempt of such court.

CROSS-REFERENCES

Refusal to answer, see section 2142 of this title.
Contempt, see section 1163 of this title.

2047. Forfeiture therefor.—A witness disobeying a subpena also forfeits to the party aggrieved the sum of $100, and all damages which he may sustain by the failure of the witness to attend, which forfeiture and damages may be recovered in a civil action.

2048. Warrant may issue to bring witness, when.—In case of failure of a witness to attend, the court or officer issuing the subpena, upon proof of the service thereof, and of the failure of the witness, may issue a warrant to the marshal or constable to arrest the witness and bring him before the court or officer where his attendance was required.

2049. Contents of warrant.—Every warrant of commitment, issued by a court or officer pursuant to sections 2041 to 2051 of this title, must specify therein, particularly, the cause of the commitment, and if it be for refusing to answer a question, such question must be stated in the warrant. And every warrant to arrest or commit a witness, pursuant to said sections, must be executed in the same manner as process issued by the district court.

2050. If witness be a prisoner, how brought.—If the witness be a prisoner, confined in a jail or prison within the Canal Zone, an order for his examination in the prison upon deposition, or for his temporary removal and production before a court or officer, for the purpose of being orally examined, may be made as follows:

1. By the court itself in which the action or special proceeding is pending, unless it be a magistrate's court.
2. By the judge of the district court if the action or proceeding is pending before a magistrate's court, or before a judge or other person out of court.

2051. On whose motion.—Such order can only be made on the motion of a party, upon affidavit showing the nature of the action or proceeding, the testimony expected from the witness, and its materiality.

C. MODE OF TAKING THE TESTIMONY OF WITNESSES

2061. Testimony, in what mode taken.—The testimony of witnesses is taken in three modes:

1. By affidavit;
2. By deposition;
3. By oral examination.

2062. Affidavit defined.—An affidavit is a written declaration under oath, made without notice to the adverse party.

Cross-Reference

Affidavits, see sections 2071 et seq., of this title.

2063. Deposition defined.—A deposition is a written declaration, under oath, made upon notice to the adverse party, for the purpose of enabling him to attend and cross-examine. In all actions and proceedings where the default of the defendant has been duly entered, and in all proceedings to obtain letters of administration, or for the probate of wills and the issuance of letters testamentary thereon, where, after due and legal notice, those entitled to contest the application have failed to appear, the entry of said defaults, and the failure of said persons to appear after notice, shall be deemed to be a waiver of the right to any further notice of any application or proceeding to take testimony by deposition in such action or proceeding.

Cross-References

Depositions, see sections 2081 et seq., of this title.
Form of, see section 2065 of this title.

2064. Oral examination defined.—An oral examination is an examination in presence of the jury or tribunal which is to decide the fact or act upon it, the testimony being heard by the jury or tribunal from the lips of the witness.

CROSS-REFERENCE

General rules of examination, see sections 2111 et seq., of this title.

2065. Deposition defined; how taken.—Depositions must be taken in the form of question and answer. The words of the witness must be written down, in the presence of the witness, by the officer taking the deposition, or by some disinterested person appointed by him. It may be taken down in shorthand, in which case it must be transcribed into longhand by the person who took it down. When completed, it must be carefully read to or by the witness and corrected by him in any particular, if desired, by writing or causing his corrections to be written in the body or margin of or at the bottom of the deposition, and must then be subscribed by the witness. The officer before whom the deposition is taken must write his initials near said corrections. If the parties agree in writing to any other mode, the mode so agreed upon must be followed.

D. AFFIDAVITS

2071. Affidavits and depositions; for what purposes used.—An affidavit may be used to verify a pleading or a paper in a special proceeding, to prove the service of a summons, notice, or other paper in an action or special proceeding, to obtain a provisional remedy, the examination of a witness, or a stay of proceedings, or upon a motion, and in any other case expressly permitted by some other provision of this title.

CROSS-REFERENCES

Affidavit, see section 1329 of this title.
Proof of service by affidavit, see section 170 of this title.
Verification of pleadings, see section 241 of this title.

2072. Evidence of publication, what.—Evidence of the publication of a document or notice required by law, or by an order of a court or judge, to be published in a newspaper, may be given by the affidavit of the printer of the newspaper, or his foreman or principal clerk, annexed to a copy of the document or notice, specifying the times when, and the paper in which, the publication was made.

2073. Filing evidence of publication.—If such affidavit be made in an action or special proceeding pending in a court, it may be filed with the court or the clerk thereof. The original affidavit, or a copy thereof, certified by the judge of the court or clerk having it in custody, is prima facie evidence of the facts stated therein.

2074. Affidavits to be used in the Canal Zone, before whom may be taken.—An affidavit to be used before any court, judge, or officer of the Canal Zone may be taken before any officer authorized to administer oaths.

CROSS-REFERENCE

Persons authorized to take affidavits, see sections 33 and 2171 of this title.

2075. Affidavit out of Canal Zone, how taken.—An affidavit taken in a State of the United States, to be used in the Canal Zone, may be taken before a commissioner appointed by the Governor of the Panama Canal to take affidavits and depositions in such State, or before any notary public in a State, or before any judge or clerk of a court of record having a seal.

2076. If made in a foreign country, before whom taken.—An affidavit taken in a foreign country to be used in the Canal Zone, may be taken before an ambassador, minister, consul, vice-consul, or consular agent of the United States, or before any judge of a court of record having a seal in such foreign country.

2077. Certificate of the clerk, if taken before a judge of a court out of the Canal Zone.—When an affidavit is taken before a judge of a court in a State, or in a foreign country, the genuineness of the signature of the judge, the existence of the court, and the fact that such judge is a member thereof, must be certified by the clerk of the court, under the seal thereof.

E. DEPOSITIONS IN GENERAL

2081. Depositions, when used.—In all cases other than those mentioned in section 2071 of this title, where a written declaration under oath is used, it must be a deposition as prescribed by this title.

2082. Testimony of a witness out of the Canal Zone, when taken.—The testimony of a witness out of the Canal Zone may be taken by deposition in the following cases:

1st. In an action, at any time after the service of summons, or the appearance of the defendant.

2d. In a special proceeding, any time after a question of fact has arisen therein.

3d. Where default has been made by any or all of the defendants.

Cross-Reference

Manner of taking depositions outside of Canal Zone, see sections 2091 et seq., of this title.

2083. Depositions in the Canal Zone, when taken.—The testimony of a witness in the Canal Zone may be taken by deposition in an action at any time after the service of the summons or the appearance of the defendant, and in a special proceeding after a question of fact has arisen therein, in the following cases:

1. When the witness is a party to the action or proceeding or an officer or member of a corporation which is a party to the action or proceeding, or a person for whose immediate benefit the action or proceeding is prosecuted or defended;
2. When the witness resides out of the division or subdivision in which his testimony is to be used;
3. When the witness is about to leave the division or subdivision where the action is to be tried, and will probably continue absent when the testimony is required;
4. When the witness, otherwise liable to attend the trial, is nevertheless too infirm to attend;

5. When the testimony is required upon a motion, or in any other case where the oral examination of the witness is not required;

6. When the witness is the only one who can establish facts or a fact material to the issue: *Provided*, That the deposition of such witness shall not be used if his presence can be procured at the time of the trial of the cause.

Cross-References

Mode of taking depositions, see section 2065 of this title.
Who may take, see section 33 of this title.

2084. Deposition may be read in evidence by either party.—A deposition taken and returned, as provided in this article, may, except as provided in section 2102 of this title, be read in evidence by either party at any stage of the action or proceeding in which it was taken, or in any other action or proceeding between the same parties or their privies or successors in interest upon the same subject, and is then deemed the evidence of the party reading it; but the court may exclude the same, if it appears that the taking thereof was in any material respect unfair.

Cross-Reference

Depositions, by whom used, see sections 2096 and 2102 of this title.

2085. Court may order deposition if adverse party in default.—If an adverse party is in default for not appearing and answering within the time allowed by law or the court, or if, in a special proceeding, some or all of the parties interested have not appeared, the court may authorize a deposition to be taken without the service of any affidavit upon, or the giving of any notice to, the party so in default or not appearing, or may provide that notice be given to him in such mode as to the court may seem proper.

Cross-Reference

Notice on default, see section 2097 of this title.

F. MANNER OF TAKING DEPOSITIONS OUTSIDE OF THE CANAL ZONE

2091. Deposition of witnesses out of Canal Zone, how taken.—The deposition of a witness out of the Canal Zone may be taken upon a commission issued from the court under the seal of the court, upon an order of the court, or the judge or a magistrate thereof, on the application of either party, upon five days' previous notice to the other. If the court is a magistrate's court, the commission must have attached to it a certificate of the clerk of the district court for the division in which such magistrate's court is held, under the seal of such district court, to the effect that the person issuing the same was an acting magistrate at the date of the commission. If issued to any place within the United States, it may be directed to a person agreed upon by the parties, or if they do not agree, to any notary public, judge or justice of the peace or commissioner selected by the court or judge or justice issuing it. If issued to any country out of the United States, it may be directed to a minister, ambassador, consul, vice consul, or consular agent of the United States, or judge of a court of record in such country, or to any person agreed upon by the parties.

2092. Proper interrogatories may be prepared, or may be waived by the parties.—The party moving for the commission must, unless it is waived by the other party, attach to the notice of the motion the interrogatories upon which he desires it to be taken. On the hearing of the motion, the other party must propose such cross-interrogatories as he may desire. If the parties do not agree as to the form of the interrogatories, the court must settle their form, but such agreement or settlement does not preclude either party, when the deposition is offered in evidence, from interposing any objection to any interrogatory except as to the form thereof. The settlement of interrogatories may be had at the time of the hearing of the motion, or at any other time which the court may appoint; but the moving party must, if he request it, be allowed two days within which to propose such redirect interrogatories as the cross-interrogatories proposed render proper. When agreed upon or settled, the interrogatories must be annexed to the commission; or, when the parties agree to that mode, or the court on the application of either party, after a hearing had upon two days' notice to the opposite party, so directs, the examination must be without written interrogatories.

CROSS-REFERENCE

Question and answer in depositions, see section 2065 of this title.

2093. Deposition of nonresident witness upon oral interrogatories.—When a party shall desire to take the evidence of a nonresident witness, to be used in any cause pending in the Canal Zone, the party desiring the same (or where notice shall have been given that a commission to take the testimony of a nonresident witness will be applied for, the opposite party, upon giving the other three days' notice in writing of his election so to do), may have a commission directed in the same manner as provided in section 2091 of this title, to take such evidence, upon interrogatories to be propounded to the witness orally; upon the taking of which each party may appear before the commission, in person or by attorney, and interrogate the witness.

The party desiring such testimony shall give to the other the following notice of the time and place of taking the same, to wit: Ten days, and one day in addition thereto (Sundays included) for every three hundred miles' travel from the place of holding the court to the place where such deposition is to be taken.

FEES AND MILEAGE.—When a party to a suit shall give the opposite party notice to take a deposition upon oral interrogatories, and shall fail to take the same accordingly, unless such failure be on account of the nonattendance of the witness, not occasioned by the fault of the party giving the notice, or some other unavoidable cause, the party notified, if he shall attend himself or by attorney, agreeably to the notice, shall be entitled to $2 per day for each day he may attend under such notice, and to 6 cents per mile for every mile that he shall necessarily travel in going to and returning from the place designated to take the deposition, to be allowed by the court where the suit is pending and for which execution may issue.

2094. Authority of commissioner.—The commission must authorize the commissioner to administer an oath to the witness and to take his deposition in answer to the interrogatories, or when the examination is to be without interrogatories, in respect to the question in dispute, and to certify the deposition to the court, in a sealed envelope, directed to the clerk, if there be one, and if not, to the judge thereof, and forwarded to him by mail or other usual channel of conveyance.

CROSS-REFERENCE

Certificate, see section 2102 of this title.

2095. Trial, when postponed for reason of nonreturn of commission.—A trial or other proceeding must not be postponed by reason of a commission not returned, except upon evidence, satisfactory to the court, that the testimony of the witness is necessary, and that proper diligence has been used to obtain it.

2096. Deposition, by whom used.—The deposition mentioned in sections 2091 to 2097 of this title may be used by either party on the trial or other proceeding, against any other party giving or receiving the notice, subject to all just exceptions.

2097. Notice dispensed with when witness resides out of Canal Zone.—In all cases where service of summons has been had by publication as provided by law and after default has been duly entered, and it appears by affidavit that the residence of a party to the action is unknown and the witness resides out of the Canal Zone, then in such cases the notice provided for in sections 2091 to 2097 of this title shall be dispensed with.

CROSS-REFERENCE

Notice on default, see section 2085 of this title.

G. MANNER OF TAKING DEPOSITIONS WITHIN THE CANAL ZONE

2101. Depositions may be taken before a judge, etc., upon notice to the adverse party.—Either party may have the deposition taken of a witness in the Canal Zone, in either of the cases mentioned in section 2083 of this title, before a judge, magistrate, or other officer authorized to administer oaths, on serving upon the adverse party previous notice of the time and place of examination, together with a copy of an affidavit, showing that the case is within that section. Such notice must be at least five days, unless, for a cause shown, a judge, by order, prescribe a shorter time. When a shorter time is prescribed, a copy of the order must be served with the notice.

2102. Manner of taking depositions; may be used by either party on the trial.—Either party may attend the examination and put such questions, direct and cross, as may be proper. The deposition, when completed, must be carefully read to or by the witness and corrected by him in any particular, if desired; it must then be subscribed by the witness, certified by the judge or officer taking the deposition, inclosed in an envelope or wrapper, sealed, and directed to the clerk of the court in which the action is pending, or to such person as the parties in writing may agree upon, and either delivered by the judge or officer to the clerk or such person, or transmitted through the mail or by some safe private opportunity; and thereupon such deposition may be used by either party upon the trial or other proceeding against any party giving or receiving the notice, subject to all legal exceptions; but if the parties attend at the examination, no objection to the form of an interrogatory shall be made at the trial, unless the same was stated at the time of the examination. If the deposition be taken under subdivisions 2, 3, and 4, of section 2083 of this title, proof must be made at the trial that the witness continues absent or infirm, or is dead. The deposition thus taken may be also read in case of the death of the witness.

CROSS-REFERENCES

Question and answer form, see section 2065 of this title.
Depositions by whom used, see sections 2084 and 2096 of this title.

2103. Deposition in the Canal Zone to be used in States.—Any party to an action or special proceeding in a court or before a judge of a State, may obtain the testimony of a witness residing in the Canal Zone, to be used in such action or proceeding, in the cases mentioned in the two sections next following.

2104. How to procure witness upon commission.—If a commission to take such testimony has been issued by the court before which such action or proceeding is pending, or by a judge thereof, on exhibiting the commission to the division of the district court in which the witness resides, with an affidavit showing the materiality of his testimony, such court may issue a subpena to the witness, requiring him to appear and testify before the commissioner named in the commission, at a specified time and place within that division.

CROSS-REFERENCE

Subpena, see sections 2041 et seq., of this title.

2105. Compelling the witnesses to appear and testify.—Whenever any mandate, writ, or commission is issued out of any court of record in any State, Territory, District, or foreign jurisdiction, or whenever, upon notice or agreement, it is required to take the testimony of a witness or witnesses in the Canal Zone, witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in the Canal Zone.

2106. How, if commission not issued.—If a commission has not been issued, and it appears to the district judge, or to a magistrate, by affidavit satisfactory to him:

1. That the testimony of the witness is material to either party, and that he resides in the division or subdivision in which such judge or magistrate holds office;

2. That a commission to take the testimony of such witness has not been issued;

3. That, according to the law of the State where the action or special proceeding is pending, the deposition of a witness taken under such circumstances, and before such judge or magistrate, will be received in the action or proceeding;

He must issue his subpena requiring the witness to appear and testify before him at a specified time and place.

2107. Deposition, how taken.—Upon the appearance of the witness, the judge or magistrate must cause his testimony to be taken in writing, and must certify and transmit the same to the court or judge before whom the action or proceeding is pending, in such manner as the law of that State requires.

H. GENERAL RULES OF EXAMINATION

2111. Order of proof, how regulated.—The order of proof must be regulated by the sound discretion of the court. Ordinarily, the party beginning the case must exhaust his evidence before the other party begins.

CROSS-REFERENCE

Reopening case, rebuttal, see section 461 of this title.

2112. What witnesses may be excluded.—If either party requires it, the judge may exclude from the court room any witness of the adverse party not at the time under examination, so that he may not hear the testimony of other witnesses; but a party to the action or proceeding cannot be so excluded; and if a corporation is a party thereto, it is entitled to the presence of one of its officers, to be designated by its attorney.

CROSS-REFERENCE

Exclusion of witnesses, see section 22 of this title.

2113. Court may control mode of interrogation.—The court must exercise a reasonable control over the mode of interrogation, so as to make it as rapid, as distinct, as little annoying to the witness, and as effective for the extraction of the truth, as may be; but subject to this rule, the parties may put such pertinent and legal questions as they see fit. The court, however, may stop the production of further evidence upon any particular point when the evidence upon it is already so full as to preclude reasonable doubt.

CROSS-REFERENCE

Duty to answer, and protection of witnesses, see sections 2142 and 2143 of this title.

2114. Direct examination and cross-examination defined.—The examination of a witness by the party producing him is denominated the direct examination; the examination of the same witness, upon the same matter, by the adverse party, the cross-examination. The direct examination must be completed before the cross-examination begins, unless the court otherwise direct.

2115. Leading question defined.—A question which suggests to the witness the answer which the examining party desires, is denominated a leading or suggestive question. On a direct examination, leading questions are not allowed, except in the sound discretion of the court, under special circumstances, making it appear that the interests of justice require it.

2116. When witness may refresh memory from notes.—A witness is allowed to refresh his memory respecting a fact, by anything written by himself, or under his direction, at the time when the fact occurred, or immediately thereafter, or at any other time when the fact was fresh in his memory, and he knew that the same was correctly stated in the writing. But in such a case the writing must be produced, and may be seen by the adverse party, who may, if he choose, cross-examine the witness upon it, and may read it to the jury. So, also, a witness may testify from such a writing, though he retain no recollection of the particular facts, but such evidence must be received with caution.

CROSS-REFERENCE

Inspection of writing shown to witness, see section 2123 of this title.

2117. Cross-Examination, as to what.—The opposite party may cross-examine the witness as to any facts stated in his direct examination or connected therewith, and in so doing may put leading questions, but if he examine him as to other matters, such examination is subject to the same rules as a direct examination.

CROSS-REFERENCE

Stopping further testimony, see section 2113 of this title.

2118. Party producing witness, how far may impeach his credit.—The party producing a witness is not allowed to impeach his credit by evidence of bad character, but he may contradict him by other evidence, and may also show that he has made at other times statements inconsistent with his present testimony, as provided in section 2121 of this title.

2119. Witness, how examined; when reexamined.—A witness once examined cannot be reexamined as to the same matter without leave of the court, but he may be reexamined as to any new matter upon which he has been examined by the adverse party. And after the examinations on both sides are once concluded, the witness cannot be recalled without leave of the court. Leave is granted or withheld, in the exercise of a sound discretion.

CROSS-REFERENCE

Recalling witness, discretion of court, see section 461 of this title.

2120. How impeached.—A witness may be impeached by the party against whom he was called, by contradictory evidence or by evidence that his general reputation for truth, honesty, or integrity is bad, but not by evidence of particular wrongful acts, except that it may be shown by the examination of the witness, or the record of the judgment, that he had been convicted of a felony.

CROSS-REFERENCES

Falsus in uno, falsus in omnibus, see section 2131 of this title.
Questions as to conviction of felony, see section 2142 of this title.

2121. Same.—A witness may also be impeached by evidence that he has made, at other times, statements inconsistent with his present testimony; but before this can be done the statements must be related to him, with the circumstances of times, places, and persons present, and he must be asked whether he made such statements, and if so, allowed to explain them. If the statements be in writing, they must be shown to the witness before any question is put to him concerning them.

2122. Evidence of good character, when allowed.—Evidence of the good character of a party is not admissible in a civil action, nor of a witness in any action, until the character of such party or witness has been impeached, or unless the issue involves his character.

2123. Writing shown to witness may be inspected by adverse party.—Whenever a writing is shown to a witness, it may be inspected by the opposite party, and no question must be put to the witness concerning a writing until it has been so shown to him.

Cross-Reference

Writing to refresh memory, see section 2116 of this title.

2124. Examination of adverse party.—A party to the record of any civil action or proceeding or a person for whose immediate benefit such action or proceeding is prosecuted or defended, or the directors, officers, superintendent, or managing agent of any corporation which is a party to the record, may be examined by the adverse party as if under cross-examination, subject to the rules applicable to the examination of other witnesses. The party calling such adverse witness shall not be bound by his testimony, and the testimony given by such witness may be rebutted by the party calling him for such examination by other evidence. Such witness, when so called, may be examined by his own counsel, but only as to the matters testified to on such examination.

ARTICLE 5.—EFFECT OF EVIDENCE

2131. Jury judges of effect of evidence, but to be instructed on certain points.—Where trial is by jury, the jury, subject to the control of the court, in the cases specified in this title, are the judges of the effect or value of evidence addressed to them, except when it is declared to be conclusive. They are, however, to be instructed by the court on all proper occasions:

1. That their power of judging of the effect of evidence is not arbitrary, but to be exercised with legal discretion, and in subordination to the rules of evidence;
2. That they are not bound to decide in conformity with the declarations of any number of witnesses, which do not produce conviction in their minds, against a less number or against a presumption or other evidence satisfying their minds;
3. That a witness false in one part of his testimony is to be distrusted in others;
4. That the testimony of an accomplice ought to be viewed with distrust, and the evidence of the oral admissions of a party with caution;

5. That in civil actions the affirmative of the issue must be proved, and when the evidence is contradictory the decision must be made according to the preponderance of evidence; that in criminal actions guilt must be established beyond reasonable doubt;

6. That evidence is to be estimated not only by its own intrinsic weight, but also according to the evidence which it is in the power of one side to produce and of the other to contradict; and, therefore,

7. That if weaker and less satisfactory evidence is offered, when it appears that stronger and more satisfactory was within the power of the party, the evidence offered should be viewed with distrust.

CROSS-REFERENCES

Province of jury, questions of fact, see section 2181 of this title.
Credibility of witnesses, jury judges of, see section 1864 of this title.
Province of court, see sections 462 and 2182 of this title.
Admissions, see section 1888 of this title.

ARTICLE 6.—RIGHTS AND DUTIES OF WITNESSES

Sec.
2141. Witness bound to attend when subpenaed.
2142. Witness bound to answer questions.
2143. Right of witness to protection.
2144. Witness protected from arrest when attending, or going, or returning.

Sec.
2145. Arrest void, and party making arrest liable, etc.
2146. To make affidavit if arrested.
2147. Court may discharge witness from arrest.

2141. Witness bound to attend when subpenaed.—A witness served with a subpena, must attend at the time appointed, with any papers under his control lawfully required by the subpena, and answer all pertinent and legal questions; and, unless sooner discharged, must remain until the testimony is closed.

CROSS-REFERENCES

Disobedience to subpena, how punished, see section 2046 of this title.
Subpena, see sections 2041 et seq., of this title.
Competency of witnesses, see sections 1901 et seq., of this title.
Examination, see sections 2111 et seq., of this title.
Power to compel attendance, see sections 23 and 31 of this title.
Contempt, see section 1163 of this title.

2142. Witness bound to answer questions.—A witness must answer questions legal and pertinent to the matter in issue, though his answer may establish a claim against himself; but he need not give an answer which will have a tendency to subject him to punishment for a felony; nor need he give an answer which will have a direct tendency to degrade his character, unless it be to the very fact in issue, or to a fact from which the fact in issue would be presumed. But a witness must answer as to the fact of his previous conviction for felony.

CROSS-REFERENCES

Contempt, see sections 1161 et seq., of this title.
Privilege of witnesses in criminal cases, see title 1, section 1; and title 6, sections 10 and 673.

2143. Right of witness to protection.—It is the right of a witness to be protected from irrelevant, improper, or insulting questions, and from harsh or insulting demeanor; to be detained only so long as the interests of justice require it; to be examined only as to matters legal and pertinent to the issue.

CROSS-REFERENCE

Compare section 2113 of this title.

2144. Witness protected from arrest when attending, or going, or returning.—Every person who has been, in good faith, served with a subpena to attend as a witness before a court, judge, commissioner, referee, or other person, in a case where the disobedience of the witness may be punished as a contempt, is exonerated from arrest in a civil action while going to the place of attendance, necessarily remaining there, and returning therefrom.

2145. Arrest void, and party making arrest liable, etc.—The arrest of a witness, contrary to the next preceding section, is void, and, when willfully made, is a contempt of the court; and the person making it is responsible to the witness arrested for double the amount of the damages which may be assessed against him, and is also liable to an action at the suit of the party serving the witness with the subpena, for the damages sustained by him in consequence of the arrest.

CROSS-REFERENCE

Contempt, see sections 1161 et seq., of this title.

2146. To make affidavit if arrested.—An officer is not liable to the party for making the arrest in ignorance of the facts creating the exoneration, but is liable for any subsequent detention of the party, if such party claim the exemption, and make an affidavit stating:

1. That he has been served with a subpena to attend as a witness before a court, officer, or other person, specifying the same, the place of attendance, and the action or proceeding in which the subpena was issued; and
2. That he has not thus been served by his own procurement, with the intention of avoiding an arrest;
3. That he is at the time going to the place of attendance, or returning therefrom, or remaining there in obedience to the subpena.

The affidavit may be taken by the officer, and exonerates him from liability for discharging the witness when arrested.

2147. Court may discharge witness from arrest.—The court or officer before whom the attendance is required, may discharge the witness from an arrest made in violation of section 2144 of this title. If the court has adjourned before the arrest, or before application for the discharge, a judge of the court may grant the discharge.

ARTICLE 7.—EVIDENCE IN PARTICULAR CASES, AND MISCELLANEOUS AND GENERAL PROVISIONS

A. EVIDENCE IN PARTICULAR CASES

Sec.
2151. An offer equivalent to tender.
2152. Whoever pays entitled to receipt.
2153. Objections to tender must be specified.
2154. Compromise offer of no avail.
2155. Admission of defendant in divorce proceedings.

B. PROCEEDINGS TO PERPETUATE TESTIMONY

2161. Evidence may be perpetuated.
2162. Manner of application for order; order.
2163. Notice of time and place to be given.
2164. Manner of taking the deposition.
2165. Papers prima facie evidence.
2166. When the evidence may be produced.
2167. Effect of the deposition.

C. ADMINISTRATION OF OATHS AND AFFIRMATIONS

Sec.
2171. Judicial and certain officers authorized to administer oaths.
2172. Form of ordinary oath to a witness.
2173. Form may be varied to suit witness' belief.
2174. Same.
2175. Any person who prefers it may declare or affirm.

D. GENERAL PROVISIONS

2181. Questions of fact, how tried.
2182. Questions of law addressed to the court.
2183. Questions of fact by court or referee.

A. EVIDENCE IN PARTICULAR CASES

2151. An offer equivalent to tender.—An offer in writing to pay a particular sum of money, or to deliver a written instrument or specific personal property, is, if not accepted, equivalent to the actual production and tender of the money, instrument, or property.

CROSS-REFERENCES

Offer to compromise, see sections 911 and 2154 of this title.
Offer of performance, see title 3, sections 731 et seq.

2152. Whoever pays entitled to receipt.—Whoever pays money, or delivers an instrument or property, is entitled to a receipt therefor from the person to whom the payment or delivery is made, and may demand a proper signature to such receipt as a condition of the payment or delivery.

CROSS-REFERENCE

Debtor entitled to, see title 3, section 745.

2153. Objections to tender must be specified.—The person to whom a tender is made must, at the time, specify any objection he may have to the money, instrument, or property, or he must be deemed to have waived it; and if the objection be to the amount of money, the terms of the instrument, or the amount or kind of property, he must specify the amount, terms, or kind which he requires, or be precluded from objecting afterwards.

CROSS-REFERENCE

Objections must be stated, see title 3, section 747.

2154. Compromise offer of no avail.—An offer of compromise is not an admission that anything is due.

CROSS REFERENCE

Offer to compromise, see sections 797 and 911 of this title.

2155. Admission of defendant in divorce proceedings.—In proceedings for divorce, no admission of the defendant shall be taken as evidence unless the court shall be satisfied that such admission was made in sincerity and without fraud or collusion to enable the plaintiff to obtain a divorce. (Sept. 21, 1922, ch. 370, sec. 16, 42 Stat. 1010; Feb. 27, 1933, ch. 127, sec. 1224, 47 Stat. 1121.)

B. PROCEEDINGS TO PERPETUATE TESTIMONY

2161. Evidence may be perpetuated.—The testimony of a witness may be taken and perpetuated as provided in sections 2162 to 2167 of this title.

2162. Manner of application for order; order.—The applicant must produce to the judge of the district court a petition, verified by the oath of the applicant, stating:

1. That the applicant expects to be a party to an action in a court in the Canal Zone, and, in such case, the names of the persons whom he expects will be adverse parties; or
2. That the proof of some fact is necessary to perfect the title to property in which he is interested, or to establish marriage, descent, heirship, or any other matter which may hereafter become material to establish, though no suit may at the time be anticipated, or, if anticipated, he may not know the parties to such suit; and
3. The name of the witness to be examined, his place of residence, and a general outline of the facts expected to be proved.

The judge to whom such petition is presented must make an order allowing the examination, and designating the officer before whom the same must be taken, and prescribing the notice to be given, which notice, if the parties expectant are known and reside in the Canal Zone, must be personally served, and, if unknown, such notice must be served on the clerk of the court, and by publication thereof in some newspaper, to be designated by the judge, for the same period required for the publication of summons. The judge must also designate in his order the clerk of the court to whom the deposition must be returned when taken.

2163. Notice of time and place to be given.—The person appointed by the judge to take the depositions is authorized, if a resident of the Canal Zone, on receiving a copy of the order of the judge, and of the notice prescribed in the next preceding section, with proof of its personal service or publication; or, if a resident outside of the Canal Zone, on receiving the commission mentioned in the section next following, with proof of like service of publication of the notice; to take the deposition of the witness named in the order of the judge, or in the commission, or, if more than one witness is thus named, of such of them as appear before him, at the time designated, and the taking of the same may be continued from time to time.

2164. Manner of taking the deposition.—The examination must be by question and answer, and if the testimony is to be taken in a State of the United States, it must be taken upon a commission to be issued by the judge allowing the examination, under the seal of the court of which he is judge, and, upon interrogatories, to be settled in the same manner as in cases of depositions taken under commission in pending actions, unless the parties expectant, if known, otherwise agree. If such parties are unknown, notice of the settlement of the interrogatories shall be published in some newspaper for such time as the judge may designate. The deposition, when completed, must be carefully read to or by the witness and be subscribed by him, then certified by the officer or person taking the same, and shall then be sealed up and delivered or transmitted to the clerk designated in the order of the judge allowing the examination, who shall file the same when received. The judge allowing the examination shall file with the clerk the order for the examination, the petition on which the same was granted, with proof of service of the order and notice.

2165. Papers prima facie evidence.—The petition and order, and papers filed by the judge, as provided in the next preceding section, or a certified copy thereof, are prima facie evidence of the facts stated therein to show compliance with the provisions of sections 2161 to 2167 of this title.

2166. When the evidence may be produced.—If a trial be had between the parties named in the petition as parties expectant or their successors in interest, or between any parties wherein it may be material to establish the facts which such depositions prove, or tend to prove, upon proof of the death, or insanity of the witnesses. or that they cannot be found or are unable, by reason of age or other infirmity, to give their testimony, the depositions or copies thereof may be used by either party, subject to all legal objections; but if the parties attended at the examination, no objections to the form of an interrogatory can be made at the trial, unless the same was stated at the examination.

2167. Effect of the deposition.—The deposition so taken and read in evidence has the same effect as the oral testimony of the witness, and no other, and every objection to the witness, or to the relevancy of any question put to him, or of any answer given by him, may be made in the same manner as if he were examined orally at the trial.

C. ADMINISTRATION OF OATHS AND AFFIRMATIONS

2171. Judicial and certain officers authorized to administer oaths.—Every court, every judge, or clerk of any court, every magistrate, and every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has power to administer oaths or affirmations.

Cross-References

Officer taking proof of acknowledgment may administer, see title 3, section 507.

Administration of oaths, by whom, see sections 23 and 31 of this title.

Authority of certain Canal officers to administer oaths for the certification of official papers, see title 2, section 41.

2172. Form of ordinary oath to a witness.—An oath, or affirmation, in an action or proceeding, may be administered as follows, the person who swears, or affirms, expressing his assent when addressed in the following form: "You do solemnly swear (or affirm, as the case may be), that the evidence you shall give in this issue (or matter), pending between ——— and ———, shall be the truth, the whole truth, and nothing but the truth, so help you God."

2173. **Form may be varied to suit witness' belief.**—Whenever the court before which a person is offered as a witness is satisfied that he has a peculiar mode of swearing, connected with or in addition to the usual form of administration, which, in his opinion, is more solemn or obligatory, the court may, in its discretion, adopt that mode.

2174. **Same.**—When a person is sworn who believes in any other than the Christian religion, he may be sworn according to the peculiar ceremonies of his religion, if there be any such.

2175. **Any person who prefers it may declare or affirm.**—Any person who desires it may, at his option, instead of taking an oath make his solemn affirmation or declaration, by assenting, when addressed, in the following form: "You do solemnly affirm (or declare) that" and so forth, as in section 2172 of this title.

D. GENERAL PROVISIONS

2181. **Questions of fact, how tried.**—All questions of fact, other than those mentioned in the section next following, are to be decided by the jury, when the trial is by jury, and all evidence thereon is to be addressed to them, except when otherwise provided by this title.

CROSS-REFERENCE

Effect of evidence, for jury, see section 2131 of this title.

2182. **Questions of law addressed to the court.**—All questions of law, including the admissibility of testimony, the facts preliminary to such admissions, and the construction of statutes and other writings, and other rules of evidence, are to be decided by the court, and all discussions of law addressed to it. Whenever the knowledge of the court is, by this title, made evidence of a fact, the court is to declare such knowledge to the jury, who are bound to accept it.

CROSS-REFERENCES

Scope of judicial notice, see section 1891 of this title.
Questions of law, how tried, see sections 434 and 784 of this title.

2183. **Questions of fact by court or referee.**—The provisions contained in this chapter respecting the evidence on a trial before a jury, are equally applicable on the trial of a question of fact before a court, referee, or other officer.

TITLE 5.—THE CRIMINAL CODE

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CHAPTER 1.—GENERAL PROVISIONS

Sec.
1. Name of title.
2. Offenses committed prior to time when title takes effect.
3. Construction of this title.
4. Construction of words and phrases.
5. Definition of various terms.
6. Arrest only for crimes declared in Code; exceptions.
7. Civil liability for offenses; effect of this title.
8. Forfeiture of property upon conviction.
9. Forfeiture of public office upon conviction.
10. Value of property as determining grade of offense.
11. Effect of title upon power of courts martial and others.

Section 1. Name of title.—This title shall be known as the Criminal Code of the Canal Zone. (Feb. 21, 1933, ch. 109, sec. 1[1], 47 Stat. 859.)

2. Offenses committed prior to time when title takes effect.—Nothing contained in this title shall apply to an offense committed prior to the time when this title takes effect. Such an offense shall be punished according to the provisions of law existing when it was committed in the same manner as if this title had not been enacted. (Feb. 21, 1933, ch. 109, sec. 115, 47 Stat. 879.)

3. Construction of this title.—All provisions and sections of this title are to be construed according to the fair construction of their terms, with a view to effect its object and to promote justice.

4. Construction of words and phrases.—As used in this title—

a. Words and phrases must be construed according to the context and the approved usage of the language.

b. Words in the present tense include the future as well as the present.

c. Words in the masculine gender include all genders except where such construction would be absurd or unreasonable.

d. The singular number includes the plural and the plural the singular.

e. Words giving a joint authority to three or more public officers or other persons are construed as giving such authority to a majority of them, unless it be otherwise expressed in the act giving them authority.

5. Definitions of various terms.—As used in this title unless otherwise apparent from the context—

a. "Bribe" signifies anything of value or advantage present or prospective or any promise or undertaking to give anything asked, given, or accepted, with a corrupt intent to influence unlawfully the person to whom it is given, in his action, vote or opinion, in any public or official capacity.

b. "Corruptly" imports a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

c. "Depose" embraces every mode of written statement under oath or affirmation.

d. "Knowingly" imports a personal knowledge. It does not require any knowledge of the unlawfulness of the act or omission.

e. "Malice" and "maliciously" import the doing of a wrongful act intentionally without just cause or excuse, a conscious violation of the law to the prejudice of another.

f. "Month" means a calendar month unless otherwise expressed.

g. "Neglect", "negligence", "negligent", and "negligently", import a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

h. "Oath" includes affirmation or declaration.

i. "Person" includes a corporation as well as a natural person. Whenever any property or interest is intended to be protected by a provision of this title and the general term "person" or any other general term is used to designate the party whose property it is intended to protect, the provision of this title and the protection thereby given shall extend to the property of the United States of America, or of any State, Territory, or possession of the United States, and any other political entity, foreign, or domestic. This provision shall not be construed to restrict the meaning of the term "person" as defined under any other provision of this title.

j. "Personal property" includes money, goods, chattels, things in action, and evidences of debt.

k. "Process" signifies a writ or summons issued in the course of judicial proceedings.

l. "Property" includes both real and personal property.

m. "Real property" is coextensive with lands and whatever is erected or growing upon or fixed to the land.

n. "Seal", when the seal of a court or public officer is required by law to be affixed to any paper, includes an impression of such seal upon the paper alone, or upon any substance attached to the paper capable of receiving a visible impression. The seal of a private person may be made in like manner, or by the scroll of a pen, or by writing the word "seal" against his name.

o. "Signature" or "subscription" includes mark, when the person cannot write, his name being written near it, and witnessed by a person who writes his own name as a witness.

p. "State", when applied to the different parts of the United States, includes the District of Columbia and Territories.

q. "Testify" embraces every mode of oral statement under oath or affirmation.

r. "United States" includes the District of Columbia and the Territories.

s. "Vessel", when used with reference to shipping, includes ships of all kinds, steamboats, barges, and every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

t. " Will " includes codicils.

u. " Willfully ", when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage.

v. " Writ " signifies an order or precept in writing issued in the name of the people or of a court or judicial officer.

w. " Writing " includes printing.

x. " Year " means a calendar year. (Sept. 21, 1922, ch. 370, sec. 9 [461, par. 17], 42 Stat. 1007; Feb. 21, 1933, ch. 109, sec. 114 [461 first subd.], 47 Stat. 879.)

6. Arrest only for crimes declared in Code; exceptions.—No person shall be arrested for any crime or offense unless the crime or offense is expressly declared in the Canal Zone Code, except—

a. For crimes and offenses against laws of the United States applicable to the Canal Zone;

b. For crimes and offenses against laws hereafter enacted by the Congress of the United States for the Canal Zone; and

c. For violations of rules and regulations authorized by law to be promulgated and for the violation of which punishment is prescribed by law.

7. Civil liability for offenses; effect of this title.—The omission to specify or affirm in this title any liability to damages, penalty, forfeiture, or other remedy imposed by law, and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, does not affect any right to recover or enforce the same.

8. Forfeiture of property upon conviction.—No conviction of any person for crime works any forfeiture of any property, except in cases in which a forfeiture is expressly imposed by law.

9. Forfeiture of public office upon conviction.—The omission to specify or affirm in this title any ground of forfeiture of a public office, or other trust or special authority conferred by law, or any power conferred by law to impeach, remove, depose, or suspend any public officer or other person holding any trust, appointment or other special authority conferred by law, does not affect such forfeiture or power, or any proceeding authorized by law to carry into effect such impeachment, removal, deposition, or suspension.

10. Value of property as determining grade of offense.—Whenever in this title the character or grade of an offense or its punishment is made to depend upon the value of the property, such value shall be estimated exclusively in United States gold coin.

11. Effect of title upon power of courts martial and others.—This title shall not affect any power which is conferred by law upon any court martial, military authority or other officer, or upon any public body, tribunal, or officer, to impose or inflict punishment upon offenders.

CHAPTER 2.—CRIMES AND PENALTIES

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ARTICLE 1.—IN GENERAL

Sec.
21. Crime or public offense defined.
22. Union of act and intent or negligence.
23. Felonies and misdemeanors.
24. Felony defined; misdemeanor defined.
25. Felony, how punished.
26. Misdemeanor, how punished.
27. Offense made punishable in different ways.
28. Omission to perform act performed by another.
29. Crime which is also contempt of court.
30. Offenses involving sending of letter, when complete.
31. Punishment of act declared to be public offense.

Section 21. Crime or public offense defined.—A crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it and to which is annexed, upon conviction, any of the following punishments:

a. Death;
b. Imprisonment;
c. Fine;
d. Removal from office; or
e. Disqualification to hold and enjoy any office of honor, trust, or profit.

22. Union of act and intent or negligence.—In every crime or public offense there must exist a union or joint operation of act and intent or criminal negligence.

CROSS-REFERENCES

Manifestations and presumptions as to intent, see title 6, section 374.
Intent to defraud, see title 6, section 375.

23. Felonies and misdemeanors.—Crimes are divided into—

a. Felonies; and
b. Misdemeanors.

24. Felony defined; misdemeanor defined.—As to all offenses included in this title, a felony is a crime which is punishable by death or by imprisonment in the penitentiary. Every other crime is a misdemeanor. When a crime punishable by imprisonment in the penitentiary is also punishable by fine or imprisonment in jail, in the discretion of the court, it shall be deemed a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in the penitentiary.

As to all offenses against the general laws of the United States applicable to the Canal Zone, a felony is a crime which is punishable by death or imprisonment for a term exceeding one year, and all other such offenses shall be deemed misdemeanors. (Feb. 21, 1933, ch. 109, sec. 4 [14], 47 Stat. 859.)

CROSS-REFERENCE

Sentence for felony to include provision for imprisonment at hard labor, see title 6, section 498.

25. Felony, how punished.—Except in cases where a different punishment is prescribed by law, every offense declared to be a felony is punishable by imprisonment in the penitentiary for not more than five years or by a fine of not more than $5,000, or by both. (Feb. 21, 1933, ch. 109, sec. 5 [15], 47 Stat. 859.)

26. Misdemeanor, how punished.—Except in cases where a different punishment is prescribed by law, every offense declared to be a misdemeanor is punishable by imprisonment in jail for not more than thirty days or by a fine of not more than $100, or by both. (Feb. 21, 1933, ch. 109, sec. 6 [16], 47 Stat. 859.)

27. Offense made punishable in different ways.—An act or omission which is made punishable in different ways by different provisions of this title may be punished under either of such provisions but in no case can it be punished under more than one.

28. Omission to perform act performed by another.—No person is punishable for an omission to perform an act where such act has been performed by another person acting in his behalf and competent by law to perform it.

29. Crime which is also contempt of court.—A criminal act is not less punishable as a crime because it is also declared to be punishable as a contempt of court.

CROSS-REFERENCES

Contempt of court, see sections 211 and 212 of this title.

Mitigation of sentence where act already punished as contempt, see title 6, section 496.

30. Offenses involving sending of letter, when complete.—In the various cases in which the sending of a letter is made criminal by this title, the offense is deemed complete from the time when such letter is deposited in any post office or any other place, or delivered to any person with intent that it shall be forwarded or delivered.

CROSS-REFERENCE

Offenses against the Postal Service, see section 111 of this title.

31. Punishment of act declared to be public offense.—When an act or omission is declared by a statute to be a public offense, and no penalty for the offense is prescribed in any statute, the act or omission is punishable as a misdemeanor.

ARTICLE 2.—ATTEMPTS TO COMMIT CRIME; IN GENERAL

Sec.
41. Attempts to commit crime; punishment.
42. Prosecution for attempt though crime was actually completed.
43. Commission of crime in unsuccessful attempt to commit another crime.

41. Attempts to commit crime; punishment.—Every person who attempts to commit any crime, but fails or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempts, as follows:

a. If the offense so attempted is punishable by imprisonment for five years, or more, the person guilty of such attempt is punishable by imprisonment for a term not exceeding one half the longest term of imprisonment prescribed upon a conviction of the offense so attempted.

b. If the offense so attempted is punishable by imprisonment for any term less than five years, the person guilty of such attempt is punishable by imprisonment for not more than one year.

c. If the offense so attempted is punishable by a fine, the offender convicted of such attempt is punishable by a fine of not more than one half the largest fine which may be imposed upon a conviction of the offense so attempted.

d. If the offense so attempted is punishable by imprisonment and by a fine, the offender convicted of such attempt may be punished by both imprisonment and one half the largest fine which may be imposed upon a conviction for the offense so attempted.

Attempts included in sections 301, 302, and 311 to 313 of this title, are not included in this section.

Cross-References

Boarding train with intent to rob, see section 294 of this title.
Acts done with intent to wreck train, see section 303 of this title.

42. Prosecution for attempt though crime was actually completed.—Any person may be tried and convicted of an attempt to commit a crime, although it appears at the trial that the crime was actually committed as intended or attempted, unless the court in its discretion dismisses the charges and directs the person to be tried for the crime. (Feb. 21, 1933, ch. 109, sec. 14 [44], 47 Stat. 860.)

43. Commission of crime in unsuccessful attempt to commit another crime.—The two next preceding sections do not protect a person who, attempting unsuccessfully to commit a crime, accomplishes the commission of another, whether greater or less in guilt, from suffering the punishment prescribed by law for the crime committed.

CHAPTER 3.—PARTIES TO CRIME

Sec.
51. Principals and accessories.
52. Principals, who are.
53. Accessories, who are.
54. Accessories, how punished.
55. Counseling or aiding in misdemeanor.
56. Persons liable to prosecution and punishment.
57. Persons capable of committing crimes.
58. Intoxication as defense; consideration in determining intent.

Section 51. Principals and accessories.—The parties to crimes are classified as—

a. Principals; and
b. Accessories.

52. Principals, who are.—All persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the offense, or aid or abet in its commission, or, not being present, have advised and encouraged its commission, and all persons counselling, advising or encouraging children under the age of fourteen years, lunatics, or idiots, to commit any crime, or who, by fraud, contrivance or force, occasion the drunkenness of another for the purpose of causing him to commit any crime, are principals in any crime so committed.

Cross-Reference

Persons triable for felony as principals, see title 6, section 211.

53. Accessories, who are.—All persons who, with knowledge that a felony has been committed, conceal it from the proper authorities, or harbor and protect the person charged with or convicted thereof, are accessories.

CROSS-REFERENCE

Prosecution of accessory to felony where principal is not prosecuted, see title 6, section 212.

54. Accessories, how punished.—Except in cases where a different punishment is prescribed, an accessory to a felony is punishable in the same manner and extent as the principal.

55. Counselling or aiding in misdemeanor.—Whenever an act is declared a misdemeanor and no punishment for counselling or aiding in the commission of the act is expressly prescribed by law, every person who counsels or aids another in the commission of the act is guilty of a misdemeanor.

56. Persons liable to prosecution and punishment.—The following persons are liable to prosecution and punishment:

a. All persons who commit, in whole or in part, any crime within the jurisdiction of the courts.

b. All who commit any offense outside of the Canal Zone which, if committed within the Canal Zone, would be larceny, robbery, or embezzlement under the laws of the Canal Zone, and bring the property stolen or embezzled, or any part of it, or are found with it, or any part of it, within the Canal Zone.

c. All who, being beyond the jurisdiction of the courts, cause or aid, advise or encourage another person to commit a crime within the territory of the Canal Zone and are afterwards found therein. (Feb. 21, 1933, ch. 109, sec. 11 [34, subd. 2], 47 Stat. 860.)

CROSS-REFERENCE

Bringing into Canal Zone property stolen or embezzled elsewhere, see, also, section 788 of this title.

57. Persons capable of committing crimes.—All persons are capable of committing crimes except those belonging to the following classes:

a. All children under the age of seven years.

b. Children over the age of seven years but under the age of fourteen years, in the absence of clear proof that at the time of committing the act charged against them they knew its wrongfulness.

c. Idiots.

d. Lunatics and insane persons; but a morbid propensity to commit prohibited acts, existing in the mind of a person who is not shown to have been incapable of knowing the wrongfulness of such acts, forms no defense to a prosecution therefor.

e. Persons who committed the act or made the omission charged through ignorance or mistake of fact, which disproved criminal intent.

f. Persons who committed the act charged without being conscious thereof.

g. Persons who committed the act or made the omission charged through misfortune or by accident, when it appears that there was no evil design, intention, or culpable negligence.

h. If the act committed were intended to be against a person other than the one actually injured, the person committing the offense is answerable as though it were committed against the person intended.

i. Married women, except for felonies, acting under the threats, command, or coercion of their husbands. In cases of felonies, however, the wife is not excused from punishment by reason of her subjection to the power of her husband, unless the facts proved show a case of duress.

j. Persons, unless the crime be punishable with death, who committed the act or made the omission charged under threats or menaces sufficient to show that they had reasonable cause to, and did believe their lives would be endangered if they refused.

Cross-Reference

Inquiry into insanity of defendant before trial or after conviction, see title 6, sections 811 to 816.

58. Intoxication as defense; consideration in determining intent.—No act committed by a person while in a state of voluntary intoxication is less criminal by reason of his having been in such condition; but whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute any particular species or degree of crime, the court or jury may take into consideration the fact that the accused was intoxicated at the time in determining the purpose, motive, or intent with which he committed the act. (Feb. 21, 1933, ch. 109, sec. 12 [37], 47 Stat. 860.)

Cross-References

Intoxication in a public place as an offense, see section 603 of this title.
Driving motor vehicle while intoxicated, see sections 512 and 513 of this title.
Act by intoxicated physician endangering life, see section 372 of this title.

CHAPTER 4.—SUBSEQUENT OFFENSES

Sec.
71. Punishment for offenses committed after conviction of prior penitentiary offense.
72. Punishment for offenses committed after conviction of petit larceny or attempting penitentiary offense.
73. Punishment for offenses committed after conviction of penitentiary offense elsewhere.
74. Punishment for third conviction of felony; habitual criminals.
75. Permit to habitual criminals to be at liberty; issuance and revocation.
76. Return of habitual criminal to penitentiary upon revocation or voiding of permit.

Section 71. Punishment for offenses committed after conviction of prior penitentiary offense.—Every person who, having been convicted of an offense punishable by imprisonment in the penitentiary, commits any crime after such conviction, is punishable therefor as follows:

a. If the offense of which such person is subsequently convicted is such that, upon a first conviction, an offender would be punishable by imprisonment in the penitentiary, for any term exceeding five years, such person is punishable by imprisonment in the penitentiary for not less than ten years.

b. If the subsequent offense is such that, upon a first conviction, the offender would be punishable by imprisonment in the penitentiary for five years, or any less term, then the person convicted of such subsequent offense is punishable by imprisonment in the penitentiary for not more than ten years.

c. If the subsequent conviction is for petit larceny, or any attempt to commit an offense which, if committed, would be punishable by imprisonment in the penitentiary for not more than five years, then the person convicted of such subsequent offense is punishable by imprisonment in the penitentiary for not more than five years.

Cross-References

Charging previous conviction of another offense, see title 6, section 195.

Verdict on charge of previous conviction of another offense, see title 6, section 413.

72. Punishment for offenses committed after conviction of petit larceny or attempting penitentiary offense.—Every person who, having been convicted of petit larceny, or of an attempt to commit an offense which, if perpetrated, would be punishable by imprisonment in the penitentiary, commits any crime after such conviction, is punishable as follows:

a. If the subsequent offense is such that, upon a first conviction, the offender would be punishable by imprisonment in the penitentiary for life at the discretion of the court, such person is punishable by imprisonment in the penitentiary during life.

b. If the subsequent offense is such that, upon a first conviction, the offender would be punishable by imprisonment in the penitentiary for any term less than for life, such person is punishable by imprisonment in such prison for the longest term prescribed, upon a conviction for such first offense.

c. If the subsequent conviction is for petit larceny, or for an attempt to commit an offense which, if perpetrated, would be punishable by imprisonment in the penitentiary, then such person is punishable by imprisonment in the penitentiary for not more than five years.

73. Punishment for offenses committed after conviction of penitentiary offense elsewhere.—Every person who has been convicted in any State, government, or country, of an offense which, if committed within the Canal Zone, would be punishable by the laws of the Canal Zone by imprisonment in the penitentiary, is punishable for any subsequent crime committed within the Canal Zone in the manner prescribed in the two next preceding sections, and to the same extent as if the first conviction had taken place in a court of the Canal Zone.

74. Punishment for third conviction of felony; habitual criminals.—Whoever has been twice convicted of felony, sentenced and committed to the penitentiary in the Canal Zone for terms of not less than five years each, shall, upon conviction of a felony committed in the Canal Zone after the enactment of this title, be deemed to be an habitual criminal, and shall be punished by imprisonment in the penitentiary for fifteen years, unless the person so convicted shall show to the satisfaction of the court, before which such conviction was had, that he was released from imprisonment upon either of the sentences upon the ground that he was innocent of the offense charged.

75. Permit to habitual criminals to be at liberty; issuance and revocation.—Whenever it shall appear to the Governor of the Panama Canal, upon the recommendation of the district attorney, that any person sentenced to the penintentiary as an habitual criminal has reformed, the Governor may issue to him a permit to be at liberty, and may revoke such permit at any time. The violation by the holder of a permit, granted as aforesaid, of any of the terms or conditions of such permit, or the violation of any of the laws of the Canal Zone, shall of itself make the permit void.

Cross-Reference

Pardons, paroles, and reprieves in general, see title 2, section 261.

76. Return of habitual criminal to penitentiary upon revocation or voiding of permit.—When any permit granted under the provisions of the next preceding section has been revoked, or has become void as aforesaid, the Governor shall direct the arrest of the holder of the permit and his return to the penitentiary. The warrant may be served by any officer authorized to serve criminal process. The holder of the permit, when returned to the penitentiary as aforesaid, shall be detained therein according to the terms of his original sentence; and in computing the period of his confinement the time between his release upon the permit and his return to the penitentiary shall not be taken to be any part of the term of sentence.

CHAPTER 5.—CONSPIRACY

Sec.
81. Definition and punishment.
Sec.
82. Necessity of overt act; exceptions.

Section 81. Definition and punishment.—Any two or more persons who shall conspire—

a. To commit any crime;

b. Falsely and maliciously to present another for any crime, or to procure another to be charged or arrested for any crime;

c. Falsely to move or maintain any suit, action, or proceeding;

d. To cheat and defraud any person of any property by means which are in themselves criminal, or to obtain money by false pretenses; or

e. To commit any act injurious to the public health, the public morals, or for the perversion or obstruction of justice or due administration of the laws;

Shall be punishable by a fine of not more than $1,000, or by imprisonment in the penitentiary for not more than one year, or by both.

Cross-References

For provisions penalizing conspiracy to commit offenses against United States, and making such penalty applicable to the Canal Zone for certain purposes, see U.S. Code, title 18, sections 88 and 574 (appendix, p. 905).

Information for conspiracy to cheat or defraud, see title 6, section 204.

82. Necessity of overt act; exceptions.—No agreement, except to commit a felony upon the person of another or to commit arson or burglary, shall amount to conspiracy unless some act beside the agreement is done to effect the object thereof by one or more of the parties to the agreement.

Cross-Reference

Proof of overt act, see title 6, section 378.

CHAPTER 6.—CRIMES BY AND AGAINST THE EXECUTIVE POWER

Sec.
91. Definitions; "executive office" and "executive officer."
92. Giving or offering bribes to executive officers.
93. Asking or receiving bribes.
94. Asking or receiving emolument for doing official act.
95. Taking reward for appointment or for permitting exercise of duties of office.
96. Buying appointment to office.
97. Acting for Government or Railroad in transactions with firm in which interested.
98. Failure to perform, or violation of law relating to, official duties.
Sec.
99. Omission of public officer to perform duty enjoined by law.
100. Exercising function of public office without authority or illegally.
101. Willful intrusion into and exercise of functions of public office.
102. Fraudulently presenting bills or claims to public officers for allowance or payment.
103. Refusal to surrender books, etc., to successor.
104. Attempting to deter or resisting executive officer.

Section 91. Definitions; "executive office" and "executive officer."—As used in this chapter—

a. "Executive office" means such offices as are occupied and administered by the Governor of the Panama Canal and the heads of the various departments or divisions of the Panama Canal and the Panama Railroad Company;

b. "Executive officer" means the Governor of the Panama Canal and the heads of the various departments or divisions of the Panama Canal and the Panama Railroad Company. (Feb. 21, 1933, ch. 109, sec. 16a [74a], 47 Stat. 861.)

92. Giving or offering bribes to executive officers.—Every person who gives or offers any bribe to any executive officer, with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer, is punishable by imprisonment in the penitentiary for not more than fourteen years, and is forever disqualified from holding any office in the Government of the Canal Zone.

Cross-Reference

Giving or offering bribes to judicial officers, see section 121 of this title.

93. Asking or receiving bribes.—Every executive officer, or person selected or appointed to an executive office, who asks, receives, or agrees to receive, any bribe, upon any agreement or understanding that his vote, opinion or action upon any matter then pending or which may be brought before him in his official capacity, shall be influenced thereby, is punishable by imprisonment in the penitentiary for not more than fourteen years; and, in addition thereto, forfeits his office, and is forever disqualified from holding any office in the Government of the Canal Zone.

94. Asking or receiving emolument for doing official act.—Every executive or ministerial officer who knowingly asks or receives any emolument, gratuity or reward, or any promise thereof, excepting such as may be authorized by law, for doing any official act, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 17 [79], 47 Stat. 861.)

CROSS-REFERENCE

Extortion in general, see sections 681 to 688 of this title.

95. Taking reward for appointment or for permitting exercise of duties of office.—Every public officer who, for any gratuity or reward, appoints another person to a public office, or permits another person to exercise or discharge any of the duties of his office, is guilty of a felony, and in addition thereto forfeits his office, and is forever disqualified from holding any office in the Government of the Canal Zone. (Feb. 21, 1933, ch. 109, sec. 18 [83], 47 Stat. 861.)

96. Buying appointment to office.—Every person who gives or offers any gratuity or reward, in consideration that he or any other person be appointed to any public office or be permitted to exercise or discharge the duties thereof is guilty of a misdemeanor.

Every person shall be disqualified from holding any office of profit who has been convicted of giving or offering a bribe to procure his selection or appointment.

CROSS-REFERENCE

Payment by court stenographer or reporter of fees for appointment or retention, see section 125 of this title.

97. Acting for Government or Railroad in transactions with firm in which interested.—No officer or agent of any corporation, joint-stock company or association, and no member or agent of any firm, or person directly or indirectly interested in the pecuniary profits or contracts of such corporation, joint-stock company, association, or firm shall be employed or shall act as an officer or agent of the United States, the Panama Canal, or the Panama Railroad Company, for the transaction of business with such corporation, joint-stock company, association, or firm. Any person who shall violate the provisions of this section shall be fined not more than $2,000, and imprisoned in the penitentiary for not more than two years. (Feb. 21, 1933, ch. 109, sec. 17a [80], 47 Stat. 861.)

98. Failure to perform, or violation of law relating to, official duties.—Every person holding a public office, who willfully refuses or neglects to perform the duties thereof or who violates any provision of law relating to his duties or the duties of his office, for which some other punishment is not prescribed, is punishable by a fine of not more than $5,000, or by imprisonment in jail for not more than one year, or by both.

99. Omission of public officer to perform duty enjoined by law.—Every willful omission to perform any duty enjoined by law upon any public officer or person holding any public trust or employment, where no special provision shall have been made for the punishment of such delinquency, is punishable as a misdemeanor.

100. Exercising function of public office without authority or illegally.—Any person who exercises any function of a public office without authority or without complying with the requirements of law is punishable by imprisonment in jail for not less than thirty days.

101. Willful intrusion into and exercise of functions of public office.—Every person who willfully and knowingly intrudes himself into any public office to which he has not been selected or appointed, and every person who, having been an executive officer, willfully exercises any of the functions of his office after his term has expired and a successor has been selected or appointed and has qualified, is guilty of a misdemeanor.

102. Fraudulently presenting bills or claims to public officers for allowance or payment.—Every person who, with intent to defraud, presents for allowance or for payment to any disbursing officer, or other officer, or to any person or officer authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is guilty of a felony.

103. Refusal to surrender books, etc., to successor.—Every officer whose office is abolished by law, or who, after the expiration of the time for which he may be appointed or selected, or after he has resigned or been legally removed from office, willfully and unlawfully withholds or detains from his successor or other person entitled thereto the records, papers, documents or other writing appertaining or belonging to his office, or mutilates, destroys or takes away the same, is punishable by imprisonment in the penitentiary for not more than ten years.

104. Attempting to deter or resisting executive officer.—Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, or who knowingly resists by the use of force or violence such officer, in the performance of his duty, is punishable by a fine of not more than $5,000, and imprisonment in the penitentiary for not more than five years.

Cross-Reference

Resisting officer acting in relation to public justice, see section 178 of this title.

CHAPTER 7.—CRIMES AGAINST THE POSTAL SERVICE

Section 111. Extension to Canal Zone of laws of United States defining postal crimes.—The postal laws and regulations of the United States, not locally inapplicable, which define crimes against the Postal Service, and prescribe punishments therefor, are extended to the Canal Zone and shall be enforceable in the courts of the Canal Zone in the manner and form prescribed for other criminal actions by the Canal Zone laws. (Feb. 21, 1933, ch. 109, sec. 13 [43a], 47 Stat. 860.)

Cross-Reference

For the laws of the United States defining postal crimes, see U.S. Code, title 18, sections 301 et seq. (appendix, p. 912).

CHAPTER 8.—CRIMES AGAINST PUBLIC JUSTICE

Art.	Sec.
1. Bribery and corruption	121
2. Forging, stealing, mutilating or falsifying judicial and public records and documents	131
3. Perjury and subornation of perjury	141
4. Falsifying evidence	161
5. Other offenses against public justice	171

Cross-Reference

Conspiracy to commit act for perversion or obstruction of justice, see section 81 of this title.

ARTICLE 1.—BRIBERY AND CORRUPTION

Sec.
121. Giving or offering bribe to judicial officer or juror.
122. Asking or receiving of bribe by judicial officer or juror.
123. Judicial officer asking or receiving reward for official act.
124. Judicial officer asking or receiving fees of stenographer or reporter.
125. Stenographer or reporter offering or paying fees for appointment.
126. Corrupt attempt to influence juror, arbitrator or referee.
127. Improper agreement or receipt of information by juror, arbitrator, or referee.
128. Magistrate, constable, or policeman purchasing judgment.

Section 121. Giving or offering bribe to judicial officer or juror.—Every person who gives or offers to give a bribe to any judicial officer, juror, referee, arbitrator, or umpire, or to any person who may be authorized by law to hear or determine any question or controversy, with intent to influence his vote, opinion, or decision upon any matter or question which is brought before him for a decision, is punishable by imprisonment in the penitentiary for not more than ten years. (Feb. 21, 1933, ch. 109, sec. 20 [94], 47 Stat. 861.)

Cross-Reference

Giving or offering bribes, to executive officers, see section 92 of this title; to witnesses, see section 166 of this title.

122. Asking or receiving of bribe by judicial officer or juror.—Every judicial officer, juror, referee, arbitrator or umpire, and every person authorized by law to hear or determine any question or controversy, who asks, receives or agrees to receive, any bribe upon any agreement or understanding that his vote, opinion or decision upon any matter or question which is or may be brought before him for decision shall be influenced thereby, is punishable by imprisonment in the penitentiary for not more than ten years. (Feb. 21, 1933, ch. 109, sec. 21 [95], 47 Stat. 861.)

Cross-References

Executive officer asking or receiving bribe, see section 93 of this title.
Witness taking or offering to take bribe, see section 167 of this title.

123. Judicial officer asking or receiving reward for official act.—Every judicial officer who asks or receives any emolument, gratuity or reward, or any promise thereof, except such as may be authorized by law, for doing an official act, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 22 [96], 47 Stat. 862.)

124. Judicial officer asking or receiving fees of stenographer or reporter.—Every judicial officer who shall ask or receive the whole or any part of the fees allowed by law to any stenographer or reporter appointed by him or any other person to record the proceedings of any court or investigation held by him, shall be guilty of a misdemeanor and upon conviction thereof shall forfeit his office.

125. Stenographer or reporter offering or paying fees for appointment.—Any stenographer or reporter, appointed by any judicial officer, who shall pay or offer to pay the whole or any part of the fees allowed him by law, for his appointment or retention in office, shall be guilty of a misdemeanor and upon conviction thereof shall be forever disqualified from holding any similar office in the courts of the Government of the Canal Zone.

Cross-Reference

Buying appointment to office, in general, see section 96 of this title.

126. Corrupt attempt to influence juror, arbitrator, or referee.—Every person who corruptly attempts to influence a juror, or any person summoned or drawn as a juror or chosen as an arbitrator or umpire or appointed a referee, in respect to his verdict in or decision of any cause or proceeding pending or about to be brought before him, either:

a. By means of any communication, oral or written, had with him except in the regular course of proceedings;

b. By means of any book, paper or instrument exhibited otherwise than in the regular course of proceedings;

c. By means of any threat, intimidation, persuasion or entreaty; or

d. By means of any promise or assurance of any pecuniary or other advantage;

Is punishable by a fine of not more than $5,000, or by imprisonment in the penitentiary for not more than five years. (Feb. 21, 1933, ch. 109, sec. 23[98], 47 Stat. 862.)

127. Improper agreement or receipt of information by juror, arbitrator, or referee.—Every juror, or person drawn or summoned as a juror, or chosen arbitrator or umpire, or appointed referee, who either:

a. Makes any promise or agreement to give a verdict or decision for or against any party; or

b. Willfully and corruptly permits any communication to be made to him, or receives any book, paper, instrument or information relating to any cause or matter pending before him, except according to the regular course of proceedings, is punishable by a fine of not more than $5,000, or by imprisonment in the penitentiary for not more than five years. (Feb. 21, 1933, ch. 109, sec 24 [99], 47 Stat. 862.)

128. Magistrate, constable or policeman purchasing judgment.—Every magistrate, constable or employee of the magistrate's court, or any policeman within the jurisdiction in which the magistrate acts, who purchases or is interested in the purchase of any judgment or part thereof on the docket of, or on the docket in possession of, the magistrate, is guilty of a misdemeanor.

ARTICLE 2.—FORGING, STEALING, MUTILATING OR FALSIFYING JUDICIAL AND PUBLIC RECORDS AND DOCUMENTS

Sec.
131. Larceny, destruction or mutilation of record by officer having custody.
132. Larceny, destruction or mutilation of record by other person.
133. Procuring or offering false instrument to be filed or recorded.
134. Adding or altering names on jury list or destroying jury box.
135. Falsifying jury lists.

131. Larceny, destruction or mutilation of record by officer having custody.—Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court filed or deposited in any public office or placed in his hands for any purpose, who is guilty of stealing, willfully destroying, mutilating, defacing, altering, falsifying, removing, or secreting, the whole or any part of the record, map, book, paper, or proceeding, or who permits any other person so to do, is punishable by imprisonment in the penitentiary for not more than ten years and by a fine of not more than $5,000.

132. Larceny, destruction or mutilation of record by other person.—Every person not an officer referred to in the next preceding section who is guilty of any of the acts specified in that section, is punishable by imprisonment either in the penitentiary for not more than five years, or in jail for not more than one year. or by a fine of not more than $1,000, or by both such fine and imprisonment. (Feb. 21, 1933, ch. 109, sec. 25 [102], 47 Stat. 862.)

133. Procuring or offering false instrument to be filed or recorded.—Every person who knowingly procures or offers any false or forged instrument to be filed, registered or recorded in any public office within the Canal Zone, which instrument if genuine might be filed, registered or recorded under the laws of the Canal Zone or the laws of the United States applicable to the Canal Zone, is guilty of a felony.

134. Adding or altering names on jury list or destroying jury box.—Every person who, except in cases allowed by law—

a. Adds any names to the list of persons selected to serve as jurors, either by placing the names in the jury box or otherwise;

b. Extracts any name therefrom;

c. Destroys the jury box or any of the pieces of paper containing the names of jurors;

d. Mutilates or defaces the names so that they cannot be read; or

e. Changes the names on the pieces of paper;

Is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 26 [103a], 47 Stat. 862.)

135. Falsifying jury lists.—Every officer or person required by law to certify to the list of persons selected as jurors who maliciously, corruptly or willfully certifies to a false or incorrect list, or a list containing other names than those selected, or who, being required by law to write down the names placed on the certified lists on separate pieces of paper, does not write down and place in the jury box the same names that are on the certified list and no more and no less than are on that list, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 27 [103b], 47 Stat. 862.)

ARTICLE 3.—PERJURY AND SUBORNATION OF PERJURY

Sec.
141. Definition of crime of perjury in general; oath defined.
142. Falsification of affidavit as to affiant's testimony, as perjury.
143. Statement of that which one does not know to be true.
144. Irregularity of oath as defense.

Sec.
145. Ignorance of materiality of false statement as defense.
146. Incompetency of witness as defense.
147. Deposition, when deemed to be complete.
148. Punishment of perjury.
149. Subornation of perjury.

141. Definition of crime of perjury in general; oath defined.—Every person who, having taken an oath that he will testify, declare, depose or certify truly before any competent tribunal, officer or person in any of the cases in which such an oath may by law be administered, willfully and contrary to that oath, states as true any material matter which he knows to be false, is guilty of perjury.

As used in this section the term " oath " includes an affirmation and every other mode authorized by law of attesting the truth of that which is stated.

CROSS-REFERENCES

Evidence in perjury prosecutions, see title 6, sections 385 and 386.

Perjury in affidavit required in claim for employees' compensation for injuries, see U.S. Code, title 5, section 789 (appendix p. 885).

Sufficiency of information for perjury or subornation of perjury, see title 6, section 203.

142. Falsification of affidavit as to affiant's testimony, as perjury.—Any person who, in any affidavit taken before any person authorized to administer oaths, swears, affirms, declares, deposes or certifies that he will testify, declare, depose or certify before any competent tribunal, officer or person, in any case then pending or thereafter to be instituted, in any particular manner or to any particular fact, and in such affidavit willfully and contrary to that oath states as true any material matter which he knows to be false, is guilty of perjury. In any prosecution under this section, the subsequent testimony of the person, in any action involving the matters contained in the affidavit, which is contrary to any of the matters contained in the affidavit, shall be prima facie evidence that the matters in the affidavit were false. (Feb. 21, 1933, ch. 109, sec. 28 [104a], 47 Stat. 863.)

143. Statement of that which one does not know to be true.—An unqualified statement of that which one does not know to be true is equivalent to a statement of that which one knows to be false.

144. Irregularity of oath as defense.—It is no defense to a prosecution for perjury that the oath was administered or taken in an irregular manner.

145. Ignorance of materiality of false statement as defense.—It is no defense to a prosecution for perjury that the accused did not know the materiality of the false statement made by him; or that it did not, in fact, affect the proceeding in or for which it was made.

It is sufficient that it was material and might have been used to affect the proceeding.

146. Incompetency of witness as defense.—It is no defense to a prosecution for perjury that the accused was not competent to give the testimony, deposition or certificate of which falsehood is alleged. It is sufficient that he did give such testimony or make the deposition or certificate.

147. Deposition, when deemed to be complete.—The making of a deposition or certificate is deemed to be complete within the provisions of this article, from the time it is delivered by the accused to any other person with the intent that it be used, uttered or published as true.

148. Punishment of perjury.—Perjury is punishable by imprisonment in the penitentiary for not more than ten years. (Feb. 21, 1933, ch. 109, sec. 29 [110], 47 Stat. 863.)

CROSS-REFERENCE

Perjury in affidavit of claim for employees' compensation for injuries, see U.S. Code, title 5, section 789 (appendix, p. 885).

149. Subornation of perjury.—Every person who willfully procures another person to commit perjury is guilty of subornation of perjury and is punishable in the same manner as he would be if personally guilty of the perjury so procured.

ARTICLE 4.—FALSIFYING EVIDENCE

Sec.
161. Offering in evidence forged or altered document or instrument.
162. Deceiving a witness.
163. Preparing false evidence.
164. Destruction or concealment of evidence.
165. Preventing or dissuading witness from attending.
166. Bribing witness.
167. Witness taking or offering to take bribe.

161. Offering in evidence forged or altered document or instrument.—Every person who upon any trial, proceeding, inquiry or investigation whatever, authorized or permitted by law, offers in evidence as genuine or true, any book, paper, document, record or other instrument in writing, knowing the same to have been forged or fraudulently altered or antedated, is guilty of a felony.

162. Deceiving a witness.—Every person who practices any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token or writing, to any witness or person about to be called as a witness upon any trial, proceeding, inquiry or investigation whatever, authorized by law, with intent to affect the testimony of the witness, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 30 [113], 47 Stat. 863.)

163. Preparing false evidence.—Every person who shall prepare any false or antedated book, paper, record, instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced for any fraudulent or deceitful purpose, as genuine or true, upon any trial, proceeding or inquiry whatever authorized by law, is guilty of a felony.

164. Destruction or concealment of evidence.—Every person who, knowing that any book, paper, record, instrument in writing or other matter or thing, is about to be produced in evidence upon any trial, inquiry or investigation whatever authorized by law, willfully destroys or conceals the same, with intent thereby to prevent it from being produced, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 31 [115], 47 Stat. 863.)

165. Preventing or dissuading witness from attending.—Every person who willfully prevents or dissuades any person who is or may become a witness from attending upon any trial, proceeding or inquiry, authorized by law, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 32 [116], 47 Stat. 863.)

166. Bribing witness.—Every person who gives, offers or promises to give to any witness or person about to be called as a witness, any bribe, upon any understanding or agreement that the testimony of the witness shall be thereby influenced, or who attempts by any other means fraudulently to induce any person to give false or withhold true testimony, is guilty of a felony.

CROSS-REFERENCE

Bribery and corruption, see sections 121 to 128 of this title.

167. Witness taking or offering to take bribe.—Every person who is a witness, or is about to be called as such, who receives or offers to receive any bribe, upon any understanding that his testimony shall be influenced thereby, or that he will absent himself from the trial or proceeding upon which his testimony is required, is guilty of a felony.

ARTICLE 5.—OTHER OFFENSES AGAINST PUBLIC JUSTICE

A. IN GENERAL

Sec.
171. Maliciously procuring search warrant or warrant of arrest.
172. Refusal by officer to make arrest.
173. Arrests, detentions, seizures or levies without authority of law.
174. Delay by officer in taking arrested person before magistrate.
175. Refusal by persons to aid in arrests or in prevention of offenses.
176. Assaults, wrongs or oppression by officer.
177. Willful inhumanity to prisoner.
178. Resisting public officer in discharge of his duty.
179. Retaking goods from custody of officer.
180. Retaking lands after lawful removal therefrom.
181. Compounding crimes.
182. Disclosure of making of information for felony.
183. False certificates by officers.
184. Importation of foreign convicts.

B. OFFENSES IN RELATION TO HABEAS CORPUS

191. Failure by officer to obey writ of habeas corpus.
192. Imprisonment of person discharged upon writ.
193. Eluding service of writ of habeas corpus.

C. ESCAPES AND RESCUES

Sec.
201. Escapes from prison.
202. Officers permitting prisoners to escape.
203. Assisting prisoners to escape.
204. Carrying into jail or penitentiary things useful in escape.
205. Assisting in escape of person confined in Canal Zone hospital.
206. Rescuing prisoners.

D. CONTEMPT OF COURT

211. Contempt in presence of court, judge or magistrate; summary punishment.
212. Contempt by disobedience to process or command of court.

E. MISCONDUCT IN PRACTICE OF LAW

221. Misconduct by attorneys; in general.
222. Buying by attorneys of demands or suits.
223. Practice of law by one not admitted to bar.

F. FRAUDS BY DEBTORS AND OTHERS

231. Fraudulent concealment of property by defendant.
232. Fraudulent removal of property from jurisdiction by debtor.
233. Fraudulent production of infant with intent to intercept inheritance.
234. Substitution of one child for another.

A. IN GENERAL

171. Maliciously procuring search warrant or warrant of arrest.—Every person who maliciously and without probable cause procures a search warrant or warrant of arrest to be issued and executed, is guilty of a misdemeanor.

CROSS-REFERENCE

See also U.S. Code, title 18, sections 629 and 630 (appendix p. 950).

172. Refusal by officer to make arrest.—Every marshal, deputy marshal, constable, policeman or other peace officer who willfully refuses to execute a duly issued warrant for the arrest of any person charged with a criminal offense, is punishable by a fine of not more than $5,000, and imprisonment in the penitentiary for not more than three years.

173. Arrests, detentions, seizures or levies without authority of law.—Every public officer, or person pretending to be a public officer, who, under the pretense or color of any process or other legal authority, arrests any person or detains him against his will, or seizes or levies upon any property, or dispossesses any one of any lands or property without a regular process or other lawful authority therefor, is guilty of a misdemeanor.

CROSS-REFERENCES

False imprisonment, see sections 331 and 332 of this title.
Refusal of officer to obey writ of habeas corpus, see sections 191 and 192 of this title.

174. Delay by officer in taking arrested person before magistrate.—Every public officer or other person, who, having arrested any person upon a criminal charge, willfully delays to take the person before a magistrate or other officer having jurisdiction to take his examination, is guilty of a misdemeanor.

175. Refusal by persons to aid in arrests or in prevention of offenses.—Every male person above eighteen years of age, who, being thereto lawfully required by any marshal, policeman or other officer concerned in the administration of justice:

a. Neglects or refuses to aid and assist in taking or arresting any person against whom any process is issued;

b. Neglects to aid and assist in retaking any person who after being arrested or confined may have escaped from the arrest or imprisonment; or

c. Neglects or refuses to aid and assist in preventing any breach of the peace or the commission of any criminal offense;

Is punishable by a fine or not more than $1,000.

CROSS-REFERENCE

Authority of peace officer to summon assistance, see title 6, section 87.

176. Assaults, wrongs or oppression by officer.—Every public officer who, under color of authority and without lawful necessity, assaults, wrongs, oppresses or beats any person, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 35 [124], 47 Stat. 864.)

177. Willful inhumanity to prisoner.—Every officer, warden, jailer or guard who is guilty of willful inhumanity toward any prisoner under his care or in his custody, is punishable by imprisonment in jail for not more than one year, or by a fine of not more than $2,000, or by both, and by removal from office. (Feb. 21, 1933, ch. 109, sec. 33 [122], 47 Stat. 863.)

CROSS-REFERENCE

Injury to person of convict, see title 6, section 903.

178. Resisting public officer in discharge of his duty.—Every person who willfully resists, delays or obstructs any public officer in the discharge, or attempted discharge of any duty of his office, when no other punishment is prescribed, is punishable by a fine of not more than $5,000, or by imprisonment in jail for not more than one year, or by both. (Feb. 21, 1933, ch. 109, sec. 34 [123], 47 Stat. 863.)

CROSS-REFERENCE

Obstructing service or execution of search warrant, see, also, U.S. Code, title 18, section 628 (appendix, p. 950).

179. Retaking goods from custody of officer.—Every person who willfully injures or destroys, or takes or attempts to take, or assists any person in taking or attempting to take, from the custody of any officer or person, any personal property which the officer or person has in charge under any process of law, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 44 [137], 47 Stat. 865.)

CROSS-REFERENCE

Rendering assistance in escapes, see section 203 of this title.

180. Retaking lands after lawful removal therefrom.—Every person who has been removed from any lands by process of law, or who has removed from any lands pursuant to the lawful adjudication or direction of any court, tribunal or officer, and who afterwards unlawfully returns to settle, reside upon or take possession of such lands, is guilty of a misdemeanor.

181. Compounding crimes.—Every person who, having knowledge of the actual commission of a crime, takes money or property of another, or any gratuity or reward, or any engagement or promise thereof, upon any agreement or understanding to compound or conceal the crime or to abstain from any prosecution thereof, or to withhold any evidence thereof, except in the cases provided for by law in which crimes may be compromised by leave of court, is punishable as follows:

a. By imprisonment in the penitentiary for not more than five years, where the crime was punishable by death;

b. By imprisonment in the penitentiary for not more than three years, where the crime was a felony, punishable by imprisonment in the penitentiary; or

c. By imprisonment in jail for not more than thirty days, or by a fine of not more than $25, or both, where the crime was a misdemeanor.

182. Disclosure of making of information for felony.—Every district attorney, clerk, judge or other officer, who, except by issuing or in executing a warrant of arrest, willfully discloses the fact of an information having been made for a felony, before the defendant has been arrested, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 41 [133], 47 Stat. 864.)

183. False certificates by officers.—Every public officer authorized by law to make or give any certificate or other writing, who makes and delivers as true any such certificate or writing containing statements which he knows to be false, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 40 [132], 47 Stat. 864.)

184. Importation of foreign convicts.—Every captain, master of a vessel or other person, who willfully imports, brings or sends, or causes or procures to be brought or sent into the Canal Zone, any person who is a foreign convict of any crime which, if committed within the Canal Zone, would be punishable as a felony, or who is delivered or sent to him from any prison or place of confinement in any place out of the Canal Zone, is guilty of a felony, and every person so landing shall also be guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 42 [135], 47 Stat. 865.)

CROSS-REFERENCE

Exclusion of undesirables, see title 2, section 141.

B. OFFENSES IN RELATION TO HABEAS CORPUS

191. Failure by officer to obey writ of habeas corpus.—Every officer or person to whom a writ of habeas corpus is directed who, after service thereof, neglects or refuses to obey the command thereof, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 46 [142], 47 Stat. 865.)

CROSS-REFERENCE

Habeas corpus provisions generally, see title 6, sections 721 to 735.

192. Imprisonment of person discharged upon writ.—Every person who, either solely or as a member of a court, knowingly and unlawfully recommits, imprisons or restrains of his liberty, for the same cause, any person who has been discharged upon a writ of habeas corpus, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 47 [143], 47 Stat. 865.)

193. Eluding service of writ of habeas corpus.—Every person having in his custody, or under his restraint or power, any person for whose relief a writ of habeas corpus has been issued, who, with intent to elude the service of the writ, or to avoid the effect thereof, transfers the person to the custody of another, or places him under the power or control of another, or conceals or changes the place of confinement or restraint, or removes him without the jurisdiction of the court or judge issuing the writ, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 48 [144], 47 Stat. 865.)

C. ESCAPES AND RESCUES

201. Escapes from prison.—Every person who shall escape from prison while serving his sentence, shall be punishable by summary order of the competent court, by imprisonment for an additional term of not less than one twentieth or more than one fifth of the term of the original sentence.

202. **Officers permitting prisoners to escape.**—Every keeper of a jail or penitentiary, assistant jailer, or person employed as a guard or otherwise, who fraudulently contrives, procures, aids, connives at or voluntarily permits the escape of any prisoner in custody, is punishable by imprisonment in the penitentiary for not more than ten years and a fine of not more than $5,000.

203. **Assisting prisoners to escape.**—Every person who willfully assists any prisoner confined in any jail or penitentiary, or in the lawful custody of any officer or person, to escape, or in any attempt to escape from the penitentiary or custody, is punishable as provided in the next preceding section.

204. **Carrying into jail or penitentiary things useful in escape.**—Every person who carries or sends into a jail or penitentiary any thing useful to aid a prisoner in making his escape, with intent thereby to facilitate the escape of any prisoner confined therein, is punishable as provided in section 202 of this title.

205. **Assisting in escape of person confined in Canal Zone hospital.**—Any person who willfully assists any person legally confined in a hospital of the Government of the Canal Zone to escape, or in an attempt to escape therefrom, is guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 45 [141a], 47 Stat. 865.)

206. **Rescuing prisoners.**—Every person who rescues or attempts to rescue, or aids another person in rescuing or attempting to rescue, any prisoner from the penitentiary or any jail, or from any officer or person having him in lawful custody, is punishable as follows:

a. If the prisoner was in custody upon a conviction of felony punishable by death, by imprisonment in the penitentiary for not more than fourteen years;

b. If the prisoner was in custody upon a conviction of any other felony, by imprisonment in the penitentiary for not more than five years;

c. If the prisoner was in custody upon a charge of felony, by a fine of not more than $1,000, and imprisonment in the penitentiary for not more than two years; or

d. If the prisoner was in custody otherwise than upon a conviction or charge of felony, by a fine of not more than $500, and imprisonment in jail for not more than six months. (Feb. 21, 1933, ch. 109, sec. 43 [136, subs. 3], 47 Stat. 865.)

D. CONTEMPT OF COURT

211. **Contempt in presence of court, judge or magistrate; summary punishment.**—A person guilty of misbehavior in the presence of or so near a court, judge or magistrate as to obstruct the administration of justice, including the refusal of a person present in court to be sworn as a witness or to answer as a witness when lawfully required, shall be guilty of contempt, which the court may punish

summarily by imprisonment in jail for not more than ten days or by a fine of not more than $100, or by both. (Feb. 21, 1933, ch. 109, sec. 37 [131], 47 Stat. 864.)

Cross-References

Mitigation of punishment for offense already punished as contempt, see title 6, section 496.

Punishment for a crime which also constitutes a contempt, see section 29 of this title.

212. Contempt by disobedience to process or command of court.—A person guilty of any of the following acts may be punished as for contempt:

a. Disobedience of or resistance to a lawful writ, process, order, judgment or command of the district or a magistrate's court, or injunction granted by the district court or judge;

b. Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

c. Failure to obey a subpena duly served; or

d. The rescue or attempted rescue of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

The court shall determine whether the accused is guilty of contempt and if he is adjudged guilty he may be fined not more than $100, or imprisoned not more than ten days, or both. If the contempt consists in the violation of an injunction, the person guilty of the contempt may also be ordered to make complete restitution to the party injured by the violation. (Feb. 21, 1933, ch. 109, secs. 38 [131a] and 39 [131b], 47 Stat. 864.)

E. MISCONDUCT IN PRACTICE OF LAW

221. Misconduct by attorneys; in general.—Every attorney who, whether as attorney or as counselor, either—

a. Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party;

b. Willfully delays his client's suit with a view to his own gain; or

c. Willfully receives any money or allowance for or on account of any money which he has not laid out or become answerable for;

Is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 49 [145a], 47 Stat. 865.)

222. Buying by attorneys of demands or suits.—Every attorney who, either directly or indirectly, buys or is interested in buying any evidence of debt or thing in action, with intent to bring suit thereon, is guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 49 [145b], 47 Stat. 865.)

223. Practice of law by one not admitted to bar.—Any person other than one regularly admitted to the bar of the district court of the Canal Zone who advertises or represents himself as practicing or entitled to practice law in any court of the Canal Zone, other than for himself, is guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 49 [145c], 47 Stat. 865.)

F. FRAUDS BY DEBTORS AND OTHERS

231. Fraudulent concealment of property by defendant.—Every person against whom an action is pending or against whom a judgment has been rendered for the recovery of any personal property, who fraudulently conceals, sells or disposes of that property with intent to hinder, delay or defraud the person bringing the action or recovering the judgment, or with that intent removes the property beyond the jurisdiction of the courts in which it may be at the time of the commencement of the action or the rendering of the judgment, is punishable as provided in the section next following.

232. Fraudulent removal of property from jurisdiction by debtor.—Every debtor who fraudulently removes his property or effects beyond the jurisdiction of the courts, or fraudulently sells, conveys, assigns or conceals his property, with intent to defraud, hinder or delay his creditors of their rights, claims or demands, is punishable by imprisonment in the penitentiary for not more than one year, or by a fine of not more than $5,000, or by both. (Feb. 21, 1933, ch. 109, sec. 36 [127], 47 Stat. 864.)

233. Fraudulent production of infant with intent to intercept inheritance.—Every person who fraudulently produces an infant, falsely pretending it to have been born of any parent whose child would be entitled to inherit, with intent to intercept the inheritance, is punishable by imprisonment in the penitentiary for not more than ten years.

234. Substitution of one child for another.—Every person to whom an infant has been confided for nursing, education or any other purpose, who, with intent to deceive any parent or guardian of the child, substitutes or produces to the parent or guardian another child in place of the one so confided, is punishable by imprisonment in the penitentiary for not more than seven years.

CHAPTER 9.—CRIMES AGAINST THE PERSON

Art.	Sec.
1. Homicide	251
2. Mayhem	271
3. Kidnaping and child stealing	281
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CROSS-REFERENCE

Conspiracy to commit felony upon person of another, overt act not necessary, see section 82 of this title.

ARTICLE 1.—HOMICIDE

Sec.
251. Murder defined.
252. Malice defined.
253. Degrees of murder.
254. Punishment for murder.
255. Injury to or obstruction of Canal or locks causing death.
256. Manslaughter defined; voluntary and involuntary manslaughter.
257. Punishment of manslaughter.
258. Party must die within a year and a day.
259. Excusable homicide.
260. Justifiable homicide by public officers.
261. Justifiable homicide by other persons.
262. Bare fear not to justify killing.
263. Justifiable or excusable homicide not punishable.

Section 251. Murder defined.—Murder is the unlawful killing of a human being with malice aforethought.

Cross-References

Burden of proving circumstances in mitigation or justification, see title 6, section 384.

Death and fact of killing by defendant to be established as independent facts, see title 6, section 383.

252. Malice defined.—Such malice may be express or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature. It is implied when no considerable provocation appears, or when the circumstances attending the killing show an abandoned or malignant heart.

253. Degrees of murder.—Murder which is perpetrated by means of poison, lying in wait, torture, or by other willful, deliberate, or premeditated act or acts, or which is committed in the perpetration or attempt to perpetrate arson, rape, robbery, burglary, or mayhem, is murder of the first degree, and all other kinds of murder are of the second degree. (Feb. 21, 1933, ch. 109, sec. 50 [148], 47 Stat. 866.)

254. Punishment for murder.—Every person guilty of murder in the first degree shall suffer death, or, if there be extenuating circumstances, confinement in the penitentiary for life, and every person guilty of murder in the second degree is punishable by imprisonment in the penitentiary not less than ten years.

255. Injury to or obstruction of Canal or locks causing death.—If any act in violation of section 821 of this title shall cause the death of any person within a year and a day thereafter, the person so convicted shall be guilty of murder and shall be punished accordingly. (Aug. 21, 1916, ch. 371, sec. 10, 39 Stat. 529 [U.S. Code, title 48, sec. 1322].)

256. Manslaughter defined; voluntary and involuntary manslaughter.—Manslaughter is the unlawful killing of a human being without malice. It is of two kinds—

a. Voluntary: Upon a sudden quarrel or heat of passion; and

b. Involuntary: In the commission of an unlawful act not amounting to felony; or in the commission of a lawful act which might produce death, in an unlawful manner or without due caution and circumspection.

Cross-Reference

Mislabeling or wrongfully compounding drugs as manslaughter, see section 541 of this title.

257. Punishment of manslaughter.—Voluntary manslaughter is punishable by imprisonment in the penitentiary for not more than ten years.

Involuntary manslaughter is punishable by imprisonment in the penitentiary for not more than ten years, or, in the discretion of the court, by imprisonment in jail for not more than one year or by a fine of not more than $1,000, or by both such imprisonment in jail and fine.

258. Party must die within a year and a day.—To make the killing either murder or manslaughter it is requisite that the party die within a year and a day after the injury is received or the cause of death administered; in the computation of which the whole of the day on which the act was done shall be reckoned the first.

259. Excusable homicide.—Homicide is excusable when committed by accident and misfortune or in doing any lawful act by lawful means with usual and ordinary caution and without any unlawful intent.

260. Justifiable homicide by public officers.—Homicide is justifiable when committed by public officers, and those acting by their command in their aid and assistance, either:

a. In obedience to any judgment of a competent court;

b. When necessarily committed in overcoming actual resistance to the execution of some legal process or in the discharge of any other legal duty; or

c. When necessarily committed in retaking felons who have been rescued or have escaped, or in arresting persons charged with felony, and who are fleeing from justice or resisting the arrest.

Cross-References

Burden of proving homicide justifiable, see title 6, section 384.
Officer may use all necessary means to effect arrest, see title 6, section 93.

261. Justifiable homicide by other persons.—Homicide is also justifiable when committed by any person in any of the following cases:

a. When resisting any attempt to murder any person or to commit a felony or to do some great bodily injury upon any person;

b. When committed in defense of habitation, property or person, against one who manifestly intends or endeavors by violence or surprise to commit a felony, or against one who manifestly intends and endeavors in a violent, riotous or tumultuous manner to enter the habitation of another for the purpose of offering violence to any person therein;

c. When committed in the lawful defence of the person, or of a wife or husband, parent, child, master, mistress or servant of the person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury and imminent danger of such design being accomplished; but the person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mortal combat, must really and in good faith have endeavored to avoid or escape any further struggle before the homicide was committed; or

d. When necessarily committed in attempting by lawful ways and means to apprehend any person for any felony committed or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

CROSS-REFERENCES

Burden of proving homicide justifiable, see title 6, section 384.
Self-defense, see title 6, sections 31 to 33.

262. Bare fear not to justify killing.—A bare fear of the commission of any of the offenses mentioned in paragraphs b and c of the next preceding section, to prevent which homicide may be lawfully committed, is not sufficient to justify it. But the circumstances must be sufficient to excite the fears of a reasonable person, and the party killing must have acted under the influence of those fears alone.

263. Justifiable or excusable homicide not punishable.—Where a homicide appears to be justifiable or excusable, the person charged must, upon his trial, be acquitted and discharged.

ARTICLE 2.—MAYHEM

Sec.
271. Mayhem defined.
272. Mayhem, how punishable.

271. Mayhem defined.—Every person who unlawfully and maliciously deprives a human being of a member of his body, or disables, disfigures, or renders it useless, or cuts or disables the tongue, or puts out an eye, or slits the nose, ear or lip, is guilty of mayhem.

CROSS-REFERENCE

Assault with intent to commit, see section 311 of this title.

272. Mayhem, how punishable.—Mayhem is punishable by imprisonment in the penitentiary for not more than fifteen years.

ARTICLE 3.—KIDNAPING AND CHILD STEALING

Sec.
281. Kidnaping defined.
282. Punishment of kidnaping.
283. Taking or enticing child from parent, guardian or other person.

281. Kidnaping defined.—Every person who—

a. Forcibly steals, takes or arrests any person in the Canal Zone and carries him into another part of the Canal Zone or into another country or into a State or Territory of the United States;

b. Forcibly takes or arrests any person with a design to take him out of the Canal Zone without having established a claim according to the laws of the Canal Zone or of the United States applicable in the Canal Zone; or

c. By false promises, misrepresentations or the like, hires, persuades, entices, decoys or seduces any person to go out of the Canal Zone or to be taken or removed therefrom for the purpose and with the intent to sell the person into slavery or involuntary servitude or otherwise to employ him for his own use or for the use of another, without the free will and consent of the persuaded person, or to unlawfully deprive the person of his liberty;

Is guilty of kidnaping.

CROSS-REFERENCE

Bringing kidnaped person into place subject to jurisdiction of United States, see U.S. Code, title 18, section 446 (appendix, p. 938).

282. Punishment of kidnaping.—Kidnaping is punishable by imprisonment in the penitentiary for not more than fifty years. (Feb. 21, 1933, ch. 109, sec. 50a [162], 47 Stat. 866.)

283. Taking or enticing child from parent, guardian or other person.—Every person who maliciously, forcibly or fraudulently takes or entices away any child under the age of twelve years, with intent to detain and conceal the child from its parent, guardian or other person having the lawful charge of the child, is punishable by imprisonment in the penitentiary for not more than fifty years. (Feb. 21, 1933, ch. 109, sec. 50b [163], 47 Stat. 866.)

ARTICLE 4.—ROBBERY

Sec.
291. Robbery defined.
292. Fear as an element in robbery.
293. Punishment for robbery.
294. Boarding passenger train with intent to rob.

291. Robbery defined.—Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence and against his will, accomplished by means of force or fear.

CROSS-REFERENCES

Assault with intent to rob, see section 311 of this title.
Burglary, see section 651 of this title.
Larceny, see section 771 of this title.
Robbery beyond jurisdiction and bringing the stolen goods into the Canal Zone, see section 56 of this title.

292. Fear as an element in robbery.—The fear mentioned in the next preceding section may be either:

a. The fear of an unlawful injury to the person or property of the person robbed or of any relative of his, or member of his family; or

b. The fear of an immediate and unlawful injury to the person or property of anyone in the company of the person robbed at the time of the robbery.

293. Punishment for robbery.—Robbery is punishable by imprisonment in the penitentiary for not more than twenty years.

294. Boarding passenger train with intent to rob.—Every person who shall unlawfully board any passenger train with the intent of robbing the same shall be guilty of a felony and shall be punishable by imprisonment in the penitentiary for not more than forty years. (Feb. 21, 1933, ch. 109, sec. 50e [166], 47 Stat. 866.)

ARTICLE 5.—ATTEMPTS TO KILL

Sec.
301. Assault with intent to murder.
302. Administering poison.
303. Train wrecking; acts done with intention of.

301. Assault with intent to murder.—Every person who assaults another with intent to commit murder is punishable by imprisonment in the penitentiary for not more than twenty years. (Feb. 21, 1933, ch. 109, sec. 50d [165], 47 Stat. 866.)

CROSS-REFERENCE

Assault with deadly weapon, see section 346 of this title.

302. Administering poison.—Every person who with intent to kill administers or causes or procures to be administered to another, any poison or other noxious or destructive substance or liquid, but by which death is not caused, is punishable by imprisonment in the penitentiary for not more than twenty years. (Feb. 21, 1933, ch. 109, sec. 50c [164], 47 Stat. 866.)

CROSS-REFERENCE

Willfully poisoning food, medicine or water, see section 373 of this title.

303. Train wrecking; acts done with intention of.—Every person who shall—

a. Unlawfully throw out a switch, remove a rail or place any obstruction on any railroad, tramway or electric railway, with the intent of derailing any passenger, freight or other car;

b. Unlawfully place any dynamite or any other explosive material or any obstruction on the track of any railroad, tramway or electric railway, with the intent of blowing up or derailing any passenger, freight, or other car; or

c. Who shall unlawfully set fire to any railroad, tramway or electric railway, bridge, or trestle, over which any passenger, freight, or other car must pass, with intent of wrecking the car;

Shall be guilty of a felony and shall be punishable by imprisonment in the penitentiary for not more than forty years. (Feb. 21, 1933, ch. 109, sec. 50e [166], 47 Stat. 866.)

CROSS-REFERENCE

Boarding train with intent to rob, see section 294 of this title.

ARTICLE 6.—ASSAULTS WITH INTENT TO COMMIT FELONIES OTHER THAN MURDER

Sec.
311. Assaults with intent to commit certain felonies.
312. Assaults with intent to commit other felonies.
313. Administering stupefying agent to assist commission of felony.

311. Assaults with intent to commit certain felonies.—Every person who assaults another with intent to commit rape, the infamous crime against nature, mayhem, robbery or grand larceny, is punishable by imprisonment in the penitentiary for not more than fourteen years. (Feb. 21, 1933, ch. 109, sec. 51b [169], 47 Stat. 867.)

312. Assaults with intent to commit other felonies.—Every person who is guilty of an assault with intent to commit any felony, other than murder and the felonies enumerated in the next preceding section, is punishable by imprisonment in the penitentiary for not more than one year, or by a fine of not more than $500.

313. Administering stupefying agent to assist commission of felony.—Every person guilty of administering to another any chloroform, ether, laudanum or other narcotic anæsthetic or intoxicating agent, with intent thereby to enable or assist himself or any other person to commit a felony, is guilty of a felony.

ARTICLE 7. DUELS AND CHALLENGES

Sec.
321. Duel defined.
322. Fighting a duel or sending or accepting challenge.
323. Publishing another for not fighting duel.
324. Duties of officers to prevent duels.
325. Leaving Canal Zone with intent to evade laws against dueling.
326. Witness' privilege.

321. Duel defined.—A duel is any combat with deadly weapons, fought between two or more persons by previous agreement or upon a previous quarrel.

322. Fighting a duel or sending or accepting challenge.—Every person who fights a duel, or who sends or accepts a challenge to fight a duel, is guilty of a felony.

323. Publishing another for not fighting duel.—Every person who posts or publishes another for not fighting a duel or for not sending or accepting a challenge to fight a duel, or who uses any reproachful or contemptuous language, verbal, written or printed, to or concerning another, for not sending or accepting a challenge to fight a duel, or with intent to provoke a duel, is guilty of a misdemeanor.

324. Duties of officers to prevent duels.—Every judge or other officer bound to preserve the public peace, who has knowledge of the intention on the part of any persons to fight a duel, and who does not exert his official authority to arrest the party and prevent the duel, is punishable by a fine of not more than $1,000.

325. Leaving Canal Zone with intent to evade laws against dueling.—Every person who leaves the Canal Zone with intent to evade any of the provisions of this article, and to commit any act beyond the jurisdiction of the courts which is prohibited by this article, and who does any act, although out of the Canal Zone, which would be punishable by such provisions if committed within the Canal Zone, is punishable in the same manner as he would have been in case the act had been committed within the Canal Zone.

326. Witness' privilege.—No person shall be excused from testifying or answering any question upon any investigation or trial for a violation of any of the provisions of this article, upon the ground that his testimony might tend to convict him of a crime. But no evidence given upon any examination of a person so testifying shall be received against him in any criminal prosecution or proceeding.

ARTICLE 8.—FALSE IMPRISONMENT

Sec.
331. False imprisonment defined.
332. Punishment of false imprisonment.

331. False imprisonment defined.—False imprisonment is the unlawful restraint of a person's liberty, whether in a place made use of for lawful imprisonment, or in one used only on the particular occasion, or by words and an array of force, without bolts or bars in any locality whatever.

CROSS-REFERENCES

Arrest under pretense of proper authority, see section 173 of this title.
False arrest, see section 171 of this title.
Unlawful restraint after discharge on habeas corpus, and refusal to obey writ, see sections 191 and 192 of this title.

332. Punishment of false imprisonment.—False imprisonment is punishable by a fine of not more than $5,000, or by imprisonment in the penitentiary for not more than one year, or by both. (Feb. 21, 1933, ch. 109, sec. 52 [188], 47 Stat. 867.)

ARTICLE 9.—ASSAULT AND BATTERY

Sec.
341. Assault defined.
342. Punishment of assault.
343. Battery defined.
344. Punishment of battery.
345. Assault with caustic chemical.
346. Assault with deadly weapon.

341. Assault defined.—An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.

342. Punishment of assault.—An assault is punishable by a fine of not more than $25, or by imprisonment in jail for not more than thirty days.

343. Battery defined.—A battery is any willful and unlawful use of force or violence upon the person of another.

344. Punishment of battery.—A battery is punishable by a fine of not more than $100, or by imprisonment in jail for not more than thirty days, or by both.

345. Assault with caustic chemical.—Every person who willfully and maliciously places or throws, or causes to be placed or thrown, upon the person of another any vitriol, corrosive acid or caustic chemical of any nature with the intent to injure the flesh or disfigure the body of such person is punishable by imprisonment in the penitentiary for not more than fourteen years. (Feb. 21, 1933, ch. 109, sec. 51c [182], 47 Stat. 867.)

346. Assault with deadly weapon.—Every person who commits an assault upon the person of another with a deadly weapon or instrument, or by any means or force likely to produce great bodily injury, is punishable by imprisonment in the penitentiary for not more than ten years, or by a fine of not more than $5,000, or by both.

CROSS-REFERENCE

Attempts to kill, see sections 301 to 303 of this title.

ARTICLE 10.—LIBEL

Sec.
351. Libel defined.
352. Punishment of libel.
353. Malice presumed.
354. Truth and good motives as a defense.
355. Publication defined.
356. Liability of editors and publishers.
357. Liability of author of libel.
358. Privilege in publication of true report of public official proceedings.
Sec.
359. Libelous remarks connected with privileged matter.
360. Other privileged communications.
361. Threatening to publish libel.
362. Offering to prevent publication of libel, intending extortion.
363. Publishing of portraits, caricatures, and cartoons.

351. Libel defined.—A libel is a malicious defamation, expressed either by writing, printing or by signs or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue or reputation, or to publish the natural or alleged defects of one who is alive, and thereby to expose him to public hatred, contempt or ridicule.

Cross-References

Informations for libel, see title 6, section 201.

Mailing libelous matter on wrappers or envelopes, see U.S. Code, title 18, section 335 (appendix, p. 921).

352. Punishment of libel.—Every person who willfully and with a malicious intent to injure another publishes or procures to be published any libel is punishable by a fine of not more than $5,000, or imprisonment in the penitentiary for not more than one year. (Feb. 21, 1933, ch. 109, sec. 53 [190], 47 Stat. 867.)

353. Malice presumed.—An injurious publication is presumed to have been malicious if no justifiable motive for making it is shown.

354. Truth and good motives as a defense.—In all criminal prosecutions for libel the truth may be given in evidence to the jury, and if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends the defendant shall be acquitted. (Feb. 21, 1933, ch. 109, sec. 54 [192], 47 Stat. 867.)

355. Publication defined.—To sustain a charge of publishing a libel, it is not needful that the words or things complained of should have been read or seen by another. It is enough that the accused knowingly parted with the immediate custody of the libel under circumstances which exposed it to be read or seen by any other person than himself.

356. Liability of editors and publishers.—Each author, editor or proprietor of any book, newspaper or serial publication, is chargeable with the publication of any words contained in any part of such book or number of the newspaper or serial.

357. Liability of author of libel.—The author of a libel in all cases is equally guilty and is subject to the same punishment as the publisher, owner or proprietor of the newspaper or other printed publication in which the libelous article appears. The punishment prescribed in section 352 of this title is applicable to this section.

358. Privilege in publication of true report of public official proceedings.—No reporter, editor or proprietor of any newspaper is liable to any prosecution for any fair and true report of any judicial, legislative or other public official proceedings, or of any statement, speech, argument or debate in the course of the same, except upon proof of malice in making the report, which shall not be implied from the mere fact of publication.

359. Libelous remarks connected with privileged matter.—Libelous remarks or comments connected with matter privileged by the next preceding section receive no privilege by reason of their being so connected.

360. Other privileged communications.—A communication made to a person interested in the communication by one who was also interested, or who stood in such relation to the former as to afford a reasonable ground for supposing his motive innocent, is not presumed to be malicious and is a privileged communication.

361. Threatening to publish libel.—Every person who threatens another to publish a libel concerning him, or any parent, husband, wife or child of the person or member of his family, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 55 [198], 47 Stat. 867.)

CROSS-REFERENCE

Threat to accuse another of crime or to disclose infirmities, see section 371 of this title.

362. Offering to prevent publication of libel, intending extortion.—Every person who offers to prevent the publication of any libel upon another person, with intent to extort any money or other valuable consideration from any person, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 55 [198], 47 Stat. 867.)

363. Publishing of portraits, caricatures and cartoons.—Every person who shall publish in any newspaper, handbill, poster, book, or serial publication or supplement thereto—

a. The portrait of any living person a resident of the Canal Zone other than that of a person holding a public office in the Canal Zone, without the written consent of the person first had and obtained; except that it shall be lawful to publish the portrait of a person convicted of a crime; or

b. Any caricature of any person residing in the Canal Zone, which caricature will in any manner reflect upon the honor, integrity, manhood, virtue, reputation, or business or political motives of the person so caricatured, or which tends to expose the individual so caricatured to public hatred, ridicule or contempt;

Shall be punished by a fine of not more than $500, or by imprisonment in jail for not more than six months, or by both.

All persons concerned in the publication, either as owner or manager, editor, publisher or engraver are each liable for the publication. Actions for the violation of this section shall be tried either in the division where the newspaper, handbill, poster, book, or serial publication or supplement is printed or has its publication office, or in the division where the person whose portrait or caricature is published resides at the time of the alleged publication.

ARTICLE 11.—OTHER INJURIES TO PERSONS

Sec.
371. Sending letter threatening to accuse another of crime or expose failings.
372. Act by intoxicated physician endangering life.
373. Willfully poisoning food, medicine, or water.
374. Cruelty or neglect of duty toward lunatics and insane persons.
375. Innkeepers and carriers refusing to receive guests and passengers.

371. Sending letter threatening to accuse another of crime or expose failings.—Every person who knowingly and willfully sends or delivers to another any letter or writing, whether subscribed or not, threatening to accuse him or another of a crime, or to expose or publish any of his failings or infirmities, is guilty of a misdemeanor.

CROSS-REFERENCES

Threats as element of extortion in general, see sections 681 to 688 of this title.

Threat to publish libel, see section 361 of this title.

372. Act by intoxicated physician endangering life.—Every physician who, in a state of intoxication, does any act as a physician to another person by which the life of the person is endangered, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 51 [167], 47 Stat. 866.)

373. Willfully poisoning food, medicine or water.—Every person who willfully mingles any poison with any food, drink or medicine, with intent that the same shall be taken by any human being, to his injury, and every person who willfully poisons any spring, well, or reservoir of water, is punishable by imprisonment in the penitentiary for not more than twenty years. (Feb. 21, 1933, ch. 109, sec. 51a [168], 47 Stat. 867.)

CROSS-REFERENCE

Administering poison with intent to kill, see section 302 of this title.

374. Cruelty or neglect of duty toward lunatics and insane persons.—Every person guilty of any harsh, cruel or unkind treatment of, or any neglect of duty toward any idiot, lunatic or insane person, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 66 [244], 47 Stat. 869.)

375. Innkeepers and carriers refusing to receive guests and passengers.—Every person, and every agent or officer of any corporation, carrying on business as an innkeeper or as a common carrier of passengers who refuses, without just cause or excuse, to receive and entertain any guest, or to receive and carry any passenger, is guilty of a misdemeanor.

CHAPTER 10.—CRIMES AGAINST PUBLIC DECENCY AND GOOD MORALS

Art. — Sec.
1. Regulations respecting indecent or immoral conduct — 391
2. Rape, abduction, carnal abuse of children, and seduction — 401
3. Bigamy, incest, and the crime against nature — 411
4. Abortion and contraception — 421
5. Adultery — 431
6. Abandonment or neglect of wife or child — 441
7. Indecent exposure, obscene exhibitions, books and prints, and bawdy and other disorderly houses — 451
8. Gambling — 461
9. Lotteries — 471
10. Violating sepulchre and the remains of the dead — 481

Cross-References

Conspiracy to commit act injurious to public morals, see section 81 of this title.

Mailing obscene matter, see U.S. Code, title 18, section 334 (appendix, p. 920).

ARTICLE 1.—REGULATIONS RESPECTING INDECENT OR IMMORAL CONDUCT

Sec.
391. President may make rules and regulations.
392. Punishment of violations of regulations.

Section 391. President may make rules and regulations.—It shall be unlawful to engage in or permit any indecent or immoral conduct in the Canal Zone. The President is authorized to enforce this provision by making rules and regulations to assert and exercise the police power in the Canal Zone, or for any portion or division thereof, and he may amend or change any such regulation. (Aug. 21, 1916, ch. 371, sec. 4, 39 Stat. 528 [U.S. Code, title 48, sec. 1313].)

392. Punishment of violations of regulations.—Any person who violates any of the police regulations authorized under the next preceding section, shall be punished by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both. (Aug. 21, 1916, ch. 371, sec. 5, 39 Stat. 528 [U.S. Code, title 48, sec. 1314].)

ARTICLE 2.—RAPE, ABDUCTION, CARNAL ABUSE OF CHILDREN AND SEDUCTION

Sec.
401. Rape defined.
402. Proof of physical ability where defendant under fourteen.
403. Gist of offense; penetration sufficient.
404. Punishment for rape.
405. Abduction of women.
406. Enticement for purposes of prostitution.
407. Seduction under promise of marriage.
408. Intermarriage bars prosecution.

401. Rape defined.—Rape is an act of sexual intercourse accomplished with a female not the wife of the perpetrator, under any of the following circumstances:

a. Where the female is under the age of sixteen years;

b. Where she is incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent;

c. Where she is prevented from resisting by threats of great and immediate bodily harm, accompanied by apparent power of execution, or by any intoxicating, narcotic or anæsthetic substance, administered by or with the privity of the accused;

d. Where she resists, but her resistance is overcome by force or violence;

e. Where she is at the time unconscious of the nature of the act, and this is known to the accused; or

f. Where she submits under the belief that the person committing the act is her husband, and this belief is induced by any artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

CROSS-REFERENCES

Administering stupefying drugs with intent to commit felony, see section 313 of this title.

Attempts to commit rape, see section 311 of this title.

402. Proof of physical ability where defendant under fourteen.—No conviction for rape can be had against one who was under the age of fourteen years at the time of the act alleged, unless his physical ability to accomplish forcible penetration is proved as an independent fact and beyond a reasonable doubt.

403. Gist of offense; penetration sufficient.—The essential guilt of rape consists in the outrage to the person and feelings of the female. Any sexual penetration, however slight, is sufficient to complete the crime.

404. Punishment for rape.—Rape is punishable by imprisonment in the penitentiary for not more than fifty years, except where the offense is under paragraph a of section 401 of this title, in which case the punishment shall be either by imprisonment in jail for not more than one year or in the penitentiary for not more than fifty years, and in such case the jury shall recommend by their verdict whether the punishment shall be by imprisonment in jail or in the penitentiary: *Provided*, That when the defendant pleads guilty of an offense under said paragraph a, the punishment shall be in the discretion of the trial court, either by imprisonment in jail for not more than one year or in the penitentiary for not more than fifty years. (Feb. 21, 1933, ch. 109, sec. 56 [204], 47 Stat. 867.)

405. Abduction of women.—Every person who takes any woman unlawfully, against her will, and by force, menace or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the penitentiary for not more than fourteen years. (Feb. 21, 1933, ch. 109, sec. 56a [205], 47 Stat. 868.)

406. Enticement for purposes of prostitution.—Every person who—

a. Inveigles or entices any unmarried female, of previous good reputation for chastity, under the age of twenty-one years, into any house of ill fame or of assignation, or elsewhere, for any purpose of prostitution, or to have illicit carnal connection with any man;

b. Aids or assists in such inveiglement or enticement; or

c. By any false pretenses, false representation or other fraudulent means, procures any female to have illicit carnal connection with any man;

Is punishable by imprisonment in the penitentiary for not more than five years, or by a fine of not more than $1,000, or by both.

CROSS-REFERENCE

Necessity of corroborative evidence, see title 6, section 376.

407. Seduction under promise of marriage.—Every person who, under promise of marriage, seduces and has sexual intercourse with an unmarried female of previous good reputation for chastity, is punishable by imprisonment in the penitentiary for not more than five years, or by a fine of not more than $5,000, or by both.

408. Intermarriage bars prosecution.—The intermarriage of the parties prior to the trial is a bar to a prosecution for a violation of the next preceding section.

ARTICLE 3.—BIGAMY, INCEST, AND THE CRIME AGAINST NATURE

Sec.
411. Bigamy defined and punished.
412. Exception where former spouse missing or marriage annulled.
413. Marrying husband or wife of another.
414. Marriage within prohibited degrees of consanguinity.
415. Infamous crime against nature.
416. Lewd or lascivious acts with children.

411. Bigamy defined and punished.—Every person having a husband or wife living who marries any other person, except in the cases specified in the section next following, is guilty of bigamy and is punishable as for a felony. (Feb. 21, 1933, ch. 109, sec. 56d [218], 47 Stat. 868.)

CROSS-REFERENCES

Proof of marriages upon trial for bigamy, see title 6, section 377.
What marriages void, see title 3, section 53.

412. Exception where former spouse missing or marriage annulled.—The next preceding section does not extend:

a. To any person by reason of any former marriage whose husband or wife by such marriage has been absent for five successive years without being known to such person within that time to be living; or

b. To any person by reason of any former marriage which has been pronounced void, annulled or dissolved by the judgment of a competent court.

413. Marrying husband or wife of another.—Every person who knowingly and willfully marries the husband or wife of another, in any case in which the husband or wife would be punishable under the provisions of this article, is punishable by a fine of not less than $2,000, or by imprisonment in the penitentiary for not more than three years.

414. Marriage within prohibited degrees of consanguinity.—Persons being within the degrees of consanguinity within which marriages are declared by this section to be incestuous, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the penitentiary not exceeding ten years. Marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half as well as the whole blood, and between uncles and nieces, or aunts and nephews, are incestuous, whether the relationship is legitimate or illegitimate. (Feb. 21, 1933, ch. 109, sec. 57 [220], 47 Stat. 868.)

CROSS-REFERENCE

What marriages void, see title 3, section 53.

415. Infamous crime against nature.—Every person who is guilty of the infamous crime against nature, committed with mankind or with any animal, is punishable by imprisonment in the penitentiary for not more than ten years.

CROSS-REFERENCE

Assaults with intent to commit this crime, see section 311 of this title.

416. Lewd or lascivious acts with children.—Any person who shall willfully and lewdly commit any lewd or lascivious act other than the acts constituting other crimes provided for in this title upon or with the body, or any part or member thereof, of a child under the age of thirteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be imprisoned in the penitentiary for not more than ten years. (Feb. 21, 1933, ch. 109, sec. 59 [223 a], 47 Stat. 868.)

ARTICLE 4.—ABORTION AND CONTRACEPTION

Sec.
421. Acts with intent to produce miscarriage.
422. Soliciting or submitting to means to procure miscarriage.
423. Advertisement of means for abortion or contraception.

421. Acts with intent to produce miscarriage.—Every person who provides, supplies or administers to any pregnant woman, or procures any such woman to take any medicine, drug or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life, is punishable by imprisonment in the penitentiary for not more than five years. (Feb. 21, 1933, ch. 109, sec. 56b [211], 47 Stat. 868.)

CROSS-REFERENCE

Necessity of corroboration of woman by other evidence, see title 6, section 376.

422. Soliciting or submitting to means to procure miscarriage.—Every woman who solicits of any person any medicine, drug, or substance whatever, and takes the same, or who submits to any operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, unless the same is necessary to preserve her life, is punishable by imprisonment in the penitentiary for not more than five years. (Feb. 21, 1933, ch. 109, sec. 56c [212], 47 Stat. 868.)

423. Advertisement of means for abortion or contraception.—Every person who:

a. Willfully writes, composes or publishes any notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception; or

b. Offers his services by any notice, advertisement or otherwise to assist in the accomplishment of any such purpose;

Is guilty of a felony.

ARTICLE 5.—ADULTERY

431. Adultery defined and punished.—Every person who:

a. Being married, shall voluntarily have sexual intercourse with a person other than the offender's husband or wife; or

b. Being unmarried, shall voluntarily have sexual intercourse with a married person;

Is guilty of adultery and shall be fined not more than $200, or be imprisoned in jail for not more than one year.

ARTICLE 6.—ABANDONMENT OR NEGLECT OF WIFE OR CHILD

Sec.
441. Abandonment or omission to provide for wife or child.
442. Disposition of child for service in mendicant or wandering business.
443. Abuse or abandonment of child.
444. Humane society agent may aid in enforcement.

441. Abandonment or omission to provide for wife or child.—Every husband of any wife or parent of any child lawfully chargeable with the support or maintenance of such wife or child, who abandons or willfully omits, without lawful excuse, to furnish food, shelter or medical attendance to such wife or child is guilty of a misdemeanor.

CROSS-REFERENCE

Obligation of husband or parent to support wife and children, see title 3, sections 131 and 166.

442. Disposition of child for service in mendicant or wandering business.—Any person who:

a. Having in his care, custody or control any child under the age of twelve years, whether as parent, relative, guardian, employer or otherwise, shall sell, apprentice, give away, let out or otherwise dispose of any such child to any person, under any name, title or pretense, for the vocation, use, occupation, calling or service of begging or peddling in any public street or highway, or in any mendicant or wandering business whatsoever;

b. Shall take, receive, hire, employ, use, or have in custody any child for such purposes, or either of them;

Is guilty of a misdemeanor.

443. Abuse or abandonment of child.—Every person who—

a. Shall torture, cruelly beat, abuse, willfully maltreat or unnecessarily deprive of liberty any child under the age of eighteen; or

b. Having custody or possession of a child under the age of fourteen, shall expose it in any highway, street, field, house, or other place with intent to abandon it;

Is guilty of a misdemeanor.

CROSS-REFERENCE

Civil remedy for parental abuse, see title 3, section 173.

444. Humane society agent may aid in enforcement.—Any duly appointed agent of a regularly organized humane society in the Canal Zone may be commissioned by the proper authorities of the Canal Zone as a special police officer for the enforcement of the provisions of the next preceding section and of any other law, regulation or order for the prevention of cruelty to children, and when so commissioned shall be vested for that purpose with all the authority of a member of the police force.

ARTICLE 7.—INDECENT EXPOSURE, OBSCENE EXHIBITIONS, BOOKS AND PRINTS, AND BAWDY AND OTHER DISORDERLY HOUSES

Sec.
451. Indecent exposures, exhibitions and pictures.
452. Authority upon arrest to seize indecent articles.
453. Summary determination of indecent character of articles seized.
454. Destruction of indecent articles.
455. Keeping or residing in house of ill fame.
456. Keeping disorderly house.
457. Prevailing upon person to visit disorderly house.

451. Indecent exposures, exhibitions and pictures.—Every person who willfully and lewdly, either:

a. Exposes the private parts of his person in any public place or in any place where there are present other persons to be offended or annoyed thereby;

b. Procures, counsels or assists any person so to expose himself, or to take part in any model artist exhibition, or to make any other exhibition of himself to public view or to the view of any number of persons, such as is offensive to decency, or is adapted to excite to lewd or vicious thoughts or acts;

c. Writes, composes, stereotypes, prints, publishes, sells, distributes, keeps for sale or exhibits any obscene or indecent writing, publications or books; or designs, copies, draws, engraves, paints or otherwise prepares any obscene or indecent picture or print; or molds, cuts, casts or otherwise makes any obscene or indecent figure;

d. Writes, composes or publishes any notice or advertisement of any such writing, paper, book, picture, print or figure; or

e. Sings any lewd or obscene song, ballad or other words in any public place, or in any place where there are persons present to be annoyed thereby, is guilty of a misdemeanor.

CROSS-REFERENCE

Information for selling obscene books or papers, see title 6, section 205.

452. Authority upon arrest to seize indecent articles.—Every person who is authorized or enjoined to arrest any person for a violation of paragraph c of the next preceding section is equally authorized and enjoined to seize any obscene or indecent writing, paper, book, picture, print or figure found in possession or under the control of the person so arrested, and to deliver the same to the magistrate before whom the person so arrested is required to be taken. (Feb. 21, 1933, ch. 109, sec. 61 [229], 47 Stat. 869.)

453. Summary determination of indecent character of articles seized.—The magistrate to whom any obscene or indecent writing, paper, book, picture, print or figure is delivered, pursuant to the next preceding section, must, upon the examination of the accused, or if the examination is delayed or prevented, without awaiting such examination, determine the character of such writing, paper, book, picture, print or figure, and if he finds it to be obscene or indecent, he must deliver one copy to the district attorney. (Feb. 21, 1933, ch. 109, sec. 62 [230], 47 Stat. 869.)

454. Destruction of indecent articles.—Upon the conviction of the accused, any writing, paper, book, picture, print or figure, in respect whereof the accused stands convicted, shall be destroyed.

455. Keeping or residing in house of ill fame.—Every person who keeps a house of ill fame in the Canal Zone, resorted to for the purposes of prostitution or lewdness, or who willfully resides in such house, is guilty of a misdemeanor.

456. Keeping disorderly house.—Every person who—

a. Keeps any disorderly house or any house for the purpose of assignation or prostitution, or any house of public resort, by which the peace, comfort or decency of the immediate neighborhood is habitually disturbed;

b. Keeps any inn in a disorderly manner; or

c. Lets any apartment or tenement knowing that it is to be used for the purpose of assignation or prostitution;

Is guilty of a misdemeanor.

457. Prevailing upon person to visit disorderly house.—Whoever, through invitation or device, prevails upon any person to visit any room, building or other place kept for the purpose of prostitution, is punishable by a fine of not more than $500, or by imprisonment in jail for not more than six months, or by both. (Feb. 21, 1933, ch. 109, sec. 63 [235], 47 Stat. 869.)

ARTICLE 8.—GAMBLING

Sec.
461. Conducting gambling game for a percentage.
462. Possessing or permitting maintenance of gambling device or game.
463. Possessing or permitting maintenance of slot or other gambling machine.

461. Conducting gambling game for a percentage.—Every person who conducts or carries on, or causes to be conducted or carried on, either as owner, agent or employee, whether for gain or a chance for gain by deducting a percentage either of the profits or of the stake being hazarded, any game of faro, monte, roulette, lansquenet, rouge-et-noir, rondo, tan, fan-tan, studhorse poker, poker, seven-and-a-half, twenty-one, hokey-pokey or any other game, for money, checks, credit or other representative of value, shall be punishable by a fine of not more than $1,000, or by imprisonment in jail for not more than one year, or by both. (July 5, 1932, ch. 416, 47 Stat. 571.)

CROSS-REFERENCE

Lotteries, see sections 471 to 477 of this title.

462. Possessing or permitting maintenance of gambling device or game.—Every person who has in his possession or under his control, or who permits to be placed, maintained or kept in any room, space, inclosure or building owned, leased or occupied by him, or under his control or management, any device or game on which any money or other valuable thing is staked or hazarded and as a result such money or valuable thing may be won or lost, shall be punishable as provided in section 461 of this title. (July 5, 1932, ch. 416, 47 Stat. 571.)

463. Possessing or permitting maintenance of slot or other gambling machine.—Every person who has in his possession or under his control, either as owner, agent, employee or otherwise, or who permits to be placed, maintained or kept in any room, space, inclosure or building owned, leased or occupied by him, or under his management or control, any slot or card machine, contrivance, appliance or mechanical device, upon the result of action of which money or other valuable thing is staked or hazarded, and which is operated or played by placing or depositing therein any coins, checks, slugs or other articles or device, or in any other manner, and by means whereof, or as a result of the operation of which, any merchandise, money, check, token or other representative or article of value, redeemable in or exchangeable for money or any other thing of value, is won or lost, shall be punishable as provided in section 461 of this title. (July 5, 1932, ch. 416, 47 Stat. 571.)

ARTICLE 9.—LOTTERIES

Sec.
471. "Lottery" and "lottery ticket" defined.
472. Lotteries unlawful.
473. Establishment or promotion of lottery.
474. Selling tickets or being concerned in lottery as owner or agent.

Sec.
475. Publishing account of lottery.
476. Causing tickets or advertisements to be brought in for distribution.
477. Raffles or gift enterprises for charitable purposes.

471. "Lottery" and "lottery ticket" defined.—As used in this article:

a. "Lottery" means and includes any lottery, policy-lottery, gift concert or similar enterprise of any description by whatever name, style or title the same may be designated or known.

b. "Lottery ticket" means and includes any lottery ticket, order or device of any kind, for or representing any number of shares or any interest in any lottery or scheme of chance. (July 14, 1932, ch. 479, secs. 1 [3] and 2 [4], 47 Stat. 661.)

CROSS-REFERENCE

Proof on trial for violation of lottery laws, see title 6, section 382.

472. Lotteries unlawful.—The establishment, maintenance, promotion or drawing of any lottery in the Canal Zone is unlawful and cannot be authorized by any public officer of the Canal Zone, except as provided in section 477 of this title.

CROSS-REFERENCE

Postal offenses in connection with lotteries, see U.S. Code, title 18, sections 336 and 337 (appendix, p. 922).

473. Establishment or promotion of lottery.—Any person who shall—

a. Establish, set on foot, carry on, promote, make or draw, any lottery within the Canal Zone whether publicly or privately; or

b. By such ways and means expose, set aside or offer for sale any real or personal property, or certificate of claim, or any thing of value or taken thereof whatever;

Shall be punished for a first offense by a fine of not more than $1,000, or by imprisonment in jail for not more than one year; or by both, and for a subsequent offense by both fine and imprisonment. (July 14, 1932, ch. 479, sec. 1 [3], 47 Stat. 661.)

474. Selling tickets or being concerned in lottery as owner or agent.—Any person within the Canal Zone who shall—

a. Vend, sell, barter or dispose of any lottery ticket; or

b. Be concerned in anywise in any lottery or scheme of chance by acting as owner or agent in the Canal Zone for or on behalf of any lottery or scheme of chance to be drawn, paid or carried on, either outside of or within the Canal Zone;

Shall be punished for the first offense by a fine of not more than $1,000 or by imprisonment in jail for not more than one year, or both, in the discretion of the court, and for the second or a subsequent offense by both fine and imprisonment. (July 14, 1932, ch. 479, sec. 2 [4], 47 Stat. 661.)

475. Publishing account of lottery.—Any person who shall by printing, writing or in any other way publish an account of any lottery or scheme of chance to be carried on, held or drawn either outside of or within the Canal Zone—

a. Stating when or where any lottery or scheme of chance is to be drawn for the prizes therein or any of them;

b. Stating any information in relation to the drawing or prizes or any of them, the price of the ticket, show or chance therein, or where any ticket may be obtained;

c. In any way aiding or assisting in the lottery or scheme of chance; or

d. In anywise giving publicity to the lottery or scheme of chance;

Shall be fined not more than $1,000, or be imprisoned in jail for not more than one year, or both. (July 14, 1932, ch. 479, sec. 3 [5], 47 Stat. 661.)

476. Causing tickets or advertisements to be brought in for distribution.—Any person who shall—

a. Cause any papers, certificates or instruments purporting to be or represent a ticket, chance, share or interest in or dependent upon the event of any lottery or other enterprise offering prizes dependent upon lot or chance, to be brought into the Canal Zone from abroad for the purpose of depositing them in the Canal Zone or of disposing of them or having them disposed of therein; or

b. Cause any advertisement of any such lottery or other enterprise to be brought into the Canal Zone or deposited or circulated therein;

Shall be punished for a first offense by a fine of not more than $1,000, or by imprisonment in jail for not more than one year, or by both, and for a subsequent offense by both fine and imprisonment. (July 14, 1932, ch. 479, sec. 4 [6], 47 Stat. 662.)

CROSS-REFERENCE

Importation or "interstate" carriage of lottery tickets, see U.S. Code, title 18, section 387 (appendix, p. 932).

477. Raffles or gift enterprises for charitable purposes.—The Governor may issue a permit for conducting a raffle or gift enterprise whenever it shall appear to him after proper investigation that the gross proceeds of the enterprise are to be used for charitable purposes, and when such permit shall have been issued by the Governor the preceding sections of this article shall not apply. (July 14, 1932, ch. 479, sec. 6 [10], 47 Stat. 662.)

ARTICLE 10.—VIOLATING SEPULCHRE AND THE REMAINS OF THE DEAD

Sec.
481. Mutilation or removal of dead bodies.
482. Removal of part of dead body for sale or dissection.
483. Defacing tombs and monuments.
484. Interring remains elsewhere than in cemetery.

481. Mutilation or removal of dead bodies.—Every person who mutilates, disinters or removes from the place of sepulchre the dead body of a human being without authority of law, is guilty of a felony. But the provisions of this section do not apply to any person who lawfully removes a dead body for reinterment.

482. Removal of part of dead body for sale or dissection.—Every person who removes any part of the dead body of a human being from any grave or other place where the same has been buried, or from any place where the same is deposited while awaiting burial, with intent to sell the same, or to dissect it, without authority of law, or from malice or wantonness, is punishable by imprisonment in the penitentiary for not more than five years.

483. Defacing tombs and monuments.—Every person who willfully and maliciously defaces, breaks, destroys or removes any tomb, monument or grave stone erected to any deceased person, or any memento or memorial, or any ornamental plant, tree, or shrub appertaining to the place of burial of a human being, or who shall mark, deface, injure, destroy or remove any fence, post, rail or wall of any cemetery or graveyard, is guilty of a misdemeanor.

Cross-Reference

Injuries to monuments, ornamental trees, etc., see section 834 of this title.

484. Interring remains elsewhere than in cemetery.—Every person who, except with the permission of the Governor of the Panama Canal, shall bury or inter, or cause to be buried or interred, the dead body of any human being, or any human remains, in any place other than in a cemetery or place of burial, existing under the laws of the Canal Zone and in which interments have been made, or that is or may hereafter be established or organized, shall be guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 60 [227], 47 Stat. 868.)

CHAPTER 11.—CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY

Art. Sec.
1. In general ---------------------- 501
2. Crimes in relation to motor and other vehicles -------------- 511
3. Crimes in relation to boiler explosions or railroads --------- 521
4. Crimes in relation to bridges, ferries or roads in general ------ 531
5. Crimes in relation to food and drugs ---------------------- 541
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7. Crimes in relation to animals --- 561
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Cross-References

Carrying and keeping of arms, see sections 871 to 876 of this title.

Conspiracy to commit act injurious to public health, see section 81 of this title.

ARTICLE 1.—IN GENERAL

Sec.
501. Willful failure to perform duties under health laws.
502. Aiding or encouraging suicide.
503. Willful exposure of diseased person in public place.
504. Exhibiting deformities of persons.
505. Keeping of pesthouse or hospital.
506. Keeping or transporting explosives without permit.
507. Placing filth or animal carcasses in or near waters or highways.

Section 501. Willful failure to perform duties under health laws.—Every person charged with the performance of any duty under the laws relating to the preservation of the public health, who willfully neglects or refuses to perform the same, is guilty of a misdemeanor.

502. Aiding or encouraging suicide.—Every person who deliberately aids, advises or encourages another to commit suicide, is guilty of a felony.

503. Willful exposure of diseased person in public place.—Every person who willfully exposes himself or another afflicted with any contagious or infectious disease in any public place or thoroughfare, except in his necessary removal in a manner the least dangerous to the public health, is guilty of a misdemeanor.

504. Exhibiting deformities of persons.—Every person who exhibits the deformities of another, or his own deformities, for hire, is guilty of a misdemeanor; and every person who, by any artificial means, gives to any person the appearance of a deformity and exhibits such person for hire, shall be guilty of a misdemeanor.

505. Keeping of pesthouse or hospital.—Every person who establishes or keeps, or causes to be established or kept, within the limits of any city or village, any pesthouse, hospital or place for persons affected with contagious or infectious diseases, is guilty of a misdemeanor.

506. Keeping or transporting explosives without permit.—Every person who makes or keeps in the Canal Zone or transports in or across the Canal Zone more than five pounds of gunpowder, nitroglycerine or other highly explosive substance without a permit from the Governor so to do, is guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 71 [255], 47 Stat. 870.)

507. Placing filth or animal carcasses in or near waters or highways.—Every person who—

a. Puts the carcass of any dead animal, or the offal or filth from any slaughterhouse, pen or butcher shop, into any river, creek, pond, reservoir, stream, alley, public highway or road in common use; or

b. Puts any filth or carcass of any dead animal or any offal of any kind in or upon the borders of any stream, pond, lake or reservoir from which water is drawn for the supply of the inhabitants of any city or village, so that the drainage from the filth or carcass of any animal or offal of any kind may be taken up by or in such stream, lake or reservoir, or who by any other means, fouls or pollutes the waters of any such stream, pond, lake or reservoir;

Shall be punished by imprisonment in the penitentiary for not more than one year or by a fine of not more than $1,000, or by both.

ARTICLE 2.—CRIMES IN RELATION TO MOTOR AND OTHER VEHICLES

Sec.
511. Violation of duty by drivers of vehicles in collision.
512. Driving motor vehicle while intoxicated.
513. Driving while intoxicated and causing death or bodily injury.

511. Violation of duty by drivers of vehicles in collision.—Whenever an automobile, motorcycle or other motor vehicle, or any vehicle whatsoever, regardless of the power by which it is propelled or drawn, strikes any person, or collides with any vehicle containing a person, the driver of, and all persons in, such vehicle, who have or assume authority over the driver, shall—

a. Immediately cause the vehicle to stop;

b. Render to the person struck, or to the occupants of the vehicle collided with, all necessary assistance including the carrying of the person or occupant to a physician or surgeon for medical or surgical treatment if such treatment is required or if such carrying is requested by the person struck or the occupant of the vehicle struck; and

c. Either remain at the scene of the accident until the arrival of the police authorities or communicate a full report of the accident to the nearest police authorities without delay.

Any person violating any of the provisions of this section is punishable by imprisonment in the penitentiary for not more than five years or in jail for not more than one year, or by a fine of not more than $5,000, or by both such fine and imprisonment. (Feb. 21, 1933, ch. 109, sec. 68 [250a], 47 Stat. 870.)

CROSS-REFERENCE

Violation of motor-vehicle or highway regulations, see title 2, section 323.

512. Driving motor vehicle while intoxicated.—Any person operating or driving an automobile, motorcycle or other motor vehicle who becomes or is intoxicated while so engaged in operating or driving such automobile, motorcycle or other motor vehicle, shall be guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 69 [250b], 47 Stat. 870.)

CROSS-REFERENCE

Intoxication in a public place as an offense, see section 603 of this title.

513. Driving while intoxicated and causing death or bodily injury.—Any person operating or driving an automobile, motorcycle or other motor vehicle who becomes or is intoxicated while so engaged in operating or driving such automobile, motorcycle or other motor vehicle, and who by reason of such intoxication does any act, or neglects any duty imposed by law, which act or neglect of duty causes the death of, or bodily injury to, any person, shall be punishable by imprisonment in the penitentiary for not more than ten years, or in jail for not more than one year, or by a fine of not more than $500, or by both such fine and imprisonment. (Feb. 21, 1933, ch. 109, sec. 70 [250c], 47 Stat. 870.)

ARTICLE 3.—CRIMES IN RELATION TO BOILER EXPLOSIONS OR RAILROADS

Sec.
521. Causing steam boiler explosion endangering life.
522. Causing boiler of steamboat to explode endangering life.
523. Causing boiler explosion resulting in death.
524. Causing railroad collision resulting in death.
525. Omission by locomotive engineer to ring bell when crossing highway.
526. Intoxication of engineers, conductors, train dispatchers or telegraph operators.

521. Causing steam boiler explosion endangering life.—Every engineer or other person having charge of any steam boiler, steam engine or other apparatus for generating or employing steam used in any manufactory, railway or other works who willfully, or from ignorance or gross neglect, creates, or allows to be created, such an undue quantity of steam as to burst or break the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a felony.

522. Causing boiler of steamboat to explode, endangering life.—Every captain or other person having charge of any steamboat used for the conveyance of passengers, or of the boilers and engines thereof, who from ignorance or gross neglect or for the purpose of excelling any other boat in speed, creates or allows to be created, such an undue quantity of steam as to burst or break the boiler, or any apparatus or machinery connected therewith, by which bursting or breaking human life is endangered, is guilty of a felony.

523. Causing boiler explosion resulting in death.—Every person having charge of any steam boiler or steam engine, or other apparatus for generating or employing steam used in any manufactory, or on any railroad, or in any vessel, or in any kind of mechanical work, who willfully or from ignorance or neglect, creates or allows to be created, such an undue quantity of steam as to burst or break the boiler, engine, or apparatus, or to cause any other accident whereby the death of a human being is produced, is punishable by imprisonment in the penitentiary for not more than ten years. (Feb. 21, 1933, ch. 109, sec. 67a [248], 47 Stat. 869.)

524. Causing railroad collision resulting in death.—Every conductor, engineer, brakeman, switchman or other person having charge, wholly or in part, of any railroad car, locomotive or train, which is used as a common carrier, who willfully or negligently suffers or causes the same to collide with another car, locomotive or train, or with any other object or thing whereby the death of a human being is produced, is punishable by imprisonment in the penitentiary for not more than ten years. (Feb. 21, 1933, ch. 109, sec. 67b [250], 47 Stat. 870.)

CROSS-REFERENCES

Injuries to railroads, see sections 826 to 830 of this title.
Train wrecking, see section 303 of this title.

525. Omission by locomotive engineer to ring bell when crossing highway.—Every person in charge of a locomotive engine, who, before crossing any traveled public way, omits to cause a bell to ring or steam whistle to sound, at the distance of at least one hundred and fifty meters from the crossing, and up to it, is guilty of a misdemeanor.

526. Intoxication of engineers, conductors, train dispatchers or telegraph operators.—Every person who is intoxicated while in charge of a locomotive engine, or while acting as conductor or driver upon any railroad train or car whether propelled by steam or electricity, or while acting as train dispatcher, or as telegraph operator, receiving or transmitting dispatches in relation to the movement of trains, is guilty of a misdemeanor.

ARTICLE 4.—CRIMES IN RELATION TO BRIDGES, FERRIES OR ROADS IN GENERAL

Sec.
531. Receiving compensation for use of bridge, ferry or road.

Sec.
532. Violating conditions of undertaking to keep ferry.

531. Receiving compensation for use of bridge, ferry or road.—Every person who demands or receives compensation for the use of any bridge or ferry, or sets up or keeps any road, bridge, ferry or constructed ford for the purpose of receiving any remuneration for the use of the same without authority of law, is guilty of a misdemeanor.

CROSS-REFERENCE

Injuries to bridges or highways, see sections 822 to 826 of this title.

532. Violating conditions of undertaking to keep ferry.—Every person who, having entered into an undertaking to keep and attend a ferry, violates the conditions of such undertaking, is guilty of a misdemeanor.

ARTICLE 5.—CRIMES IN RELATION TO FOOD AND DRUGS

Sec.
541. Druggist wrongfully putting up or compounding medicines.
542. Adulterating or selling adulterated food or drugs.

Sec.
543. Adulterating or selling adulterated candy.
544. Selling or offering unwholesome food or medicine.

CROSS-REFERENCES

For provisions of the Harrison Anti-Narcotic Act, see U.S. Code, title 26, sections 1040 to 1064 and 1383 to 1391 (appendix, p. 969).

For provisions of the Narcotic Drugs Import and Export Act, see U.S. Code, title 21, sections 171 to 185 (appendix, p. 957).

541. Druggist wrongfully putting up or compounding medicines.—Every apothecary, druggist, or person carrying on business as a dealer in drugs or medicines, or person employed as clerk or salesman by such person, who, in putting up any drugs or medicines, or making up any prescription, or filling any order for drugs or medicines:

a. Willfully, negligently or ignorantly omits to label the same;

b. Puts an untrue label, stamp, or other designation of contents upon any box, bottle, or other package containing any drugs or medicines;

c. Substitutes a different article for any article prescribed or ordered;

d. Puts up a greater or less quantity of any article than that prescribed or ordered; or

e. Otherwise deviates from the terms of the prescription or order which he undertakes to follow;

In consequence of which human life or health is endangered, is guilty of a misdemeanor, or if death ensues, is guilty of manslaughter.

CROSS-REFERENCE

False weights and measures, see sections 711 to 716 of this title.

542. Adulterating or selling adulterated food or drugs.—Every person who:

a. Adulterates or dilutes any articles of food, drink, drug, medicine, spirituous or malt liquor, or wine, or any article useful in compounding them, with a fraudulent intent to offer the same or cause or permit it to be offered for sale as unadulterated or undiluted; or

b. Fraudulently sells, or keeps or offers for sale the same as unadulterated or undiluted;

Is guilty of a misdemeanor.

543. Adulterating or selling adulterated candy.—Every person who:

a. Adulterates candy by using in its manufacture terra alba or any other deleterious substance; or

b. Sells or keeps for sale any candy adulterated with terra alba or any other deleterious substance, knowing the same to be adulterated;

Is guilty of a misdemeanor.

544. Selling or offering unwholesome food or medicine.—Every person who knowingly sells, or keeps or offers for sale, or otherwise disposes of any article of food, drink, drug, or medicine, knowing that the same has become tainted, decayed, spoiled or otherwise unwholesome or unfit to be eaten or drunk, with intent to permit the same to be eaten or drunk, is guilty of a misdemeanor.

ARTICLE 6.—PUBLIC NUISANCES

Sec.
551. Public nuisance defined.
Sec.
552. Maintaining nuisance a misdemeanor.

551. Public nuisance defined.—Anything which is injurious to health or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use in the customary manner of any navigable lake or river, bay, stream, canal or basin, or any public park, square, street or highway, is a public nuisance.

CROSS-REFERENCE

See also title 3, sections 2801 to 2821.

552. Maintaining nuisance a misdemeanor.—Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor.

ARTICLE 7.—CRIMES IN RELATION TO ANIMALS

Sec.
561. Killing of person by vicious animal.
562. Injury to human being by vicious animal.
563. Offenses by owners of diseased animals, in general.
564. Sale of animal having contagious or infectious disease.
565. Destruction of animals having contagious or infectious disease.
566. Bringing in animals and violating quarantine.
567. Receiving or transporting animal in violation of quarantine.

561. Killing of person by vicious animal.—If the owner of a ferocious, vicious or mischievous animal, knowing its propensities, willfully suffers it to go at large, or keeps it without ordinary care, and such animal, while so at large, or while not kept with ordinary care, kills any human being who has taken all the precautions which the circumstances permitted, or which a reasonable person would ordinarily take in the same situation, such owner is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 74 [270], 47 Stat. 871.)

CROSS-REFERENCES

Keeping and impounding of domestic animals, see title 2, sections 201 and 202.

Cruelty to animals, see section 810 of this title.

562. Injury to human being by vicious animal.—If the owner of a ferocious, vicious or mischievous animal, knowing its propensities, willfully suffers it to go at large, or keeps it without ordinary care, and such animal, while so at large, or while not kept with ordinary care, attacks, bites or maims any human being who has taken all the precautions which the circumstances permitted, or which a reasonable person would ordinarily take in the same situation, such owner is punishable by imprisonment in jail for not more than one year, or by a fine of not more than $500, or by both. (Feb. 21, 1933, ch. 109, sec. 75 [270a], 47 Stat. 871.)

563. Offenses by owners of diseased animals, in general.—Every person owning or having the custody of any cattle, horses, mules or asses infected with a contagious disease, who:

a. Fails to report the same immediately to the health authorities;

b. Conceals the existence of such disease or attempts so to do;

c. Willfully obstructs or resists the health authorities in the discharge of their duty as provided by law; or

d. Sells, gives away or uses the meat or milk, or removes the skin or any part of the animal;

Is punishable by a fine of not more than $300, or by imprisonment in jail for not more than one year, or by both.

564. Sale of animal having contagious or infectious disease.—Any person who shall knowingly sell, offer for sale, or use, or expose, or who shall cause or procure to be sold or offered for sale or used, or exposed, any horse, mule or other animal having the disease known as glanders, or any other contagious or infectious disease, shall be guilty of a misdemeanor.

565. Destruction of animals having contagious or infectious disease.—Every animal having glanders or any other contagious or infectious disease shall at once be deprived of life by the owner or person having charge thereof, upon discovery or knowledge of its condition; and any such owner or person omitting or refusing to comply with the provisions of this section shall be guilty of a misdemeanor.

566. Bringing in animals and violating quarantine.—Every person who brings into the Canal Zone any cattle, horses, mules or asses, after the Governor has made proclamation holding such animals in quarantine, for the purpose of inspection for contagious or infectious diseases, and who:

a. Allows the same or any of them to leave the place of their first arrival in the Canal Zone before they have been examined by the health department and a certificate has been obtained therefrom that such animals are free from disease; or

b. Permits any such animals to run at large or to be removed or to escape before such certificate has been received;

Is punishable by a fine of not more than $500. (Feb. 21, 1933, ch. 109, sec. 76 [276], 47 Stat. 871.)

567. Receiving or transporting animal in violation of quarantine.—Every person who, after the publication of such proclamation, knowingly receives or transports within the limits of the Canal Zone any animal mentioned in the next preceding section before the certificate mentioned therein has been given, is punishable by a fine of not more than $2 000.

ARTICLE 8.—CRIMES IN RELATION TO FIRES

Sec.
571. Setting on fire grasses or shrubbery.
572. Resistance to fireman extinguishing fire in building.

571. Setting on fire grasses or shrubbery.—Every person who willfully or negligently sets on fire, or causes or procures to be set on fire, any grasses or shrubbery on any lands, is guilty of a misdemeanor.

CROSS-REFERENCE

Arson, see sections 641 to 644 of this title.

572. Resistance to fireman extinguishing fire in building.—Every person who, at the burning of a building, disobeys the lawful orders of any public officer or fireman, or offers any resistance to or interference with the lawful efforts of any fireman or company of firemen to extinguish the same, or engages in any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of a misdemeanor.

CROSS-REFERENCE

Interference with fire hose, water mains, fire hydrants, etc., see section 836 of this title.

CHAPTER 12.—CRIMES AGAINST THE PUBLIC PEACE

Sec.
591. President may make rules and regulations.
592. Violation of such regulations.
593. Disturbance of religious or other meetings.
594. Riot defined.
595. Punishment of riot.
596. Rout defined.
597. Unlawful assembly defined.
598. Punishment of rout or unlawful assembly.
599. Remaining at place of riot, rout or unlawful assembly.
600. Public or police officer neglecting to disperse rioters.
601. Refusal to disperse upon lawful command.

Sec.
602. Disturbing the peace.
603. Vagrants, beggars, loiters and intoxicated persons; disorderly conduct; breach of peace.
604. Drawing deadly weapon in threatening manner.
605. Forcibly entering upon or detaining real property.
606. Prize fighting prohibited; authority to regulate boxing exhibitions.
607. Spectators at prize fights.
608. Cock fights, dog fights and bull fights prohibited.
609. Registration of guests in hotel, boarding or lodging house.

Section 591. President may make rules and regulations.—It shall be unlawful to commit any breach of the peace or engage in or permit any disorderly conduct in the Canal Zone. The President is authorized to enforce this provision by making rules and regulations to assert and exercise the police power in the Canal Zone, or for any portion or division thereof, and he may amend or change any such regulation. (Aug. 21, 1916, ch. 371, sec. 4, 39 Stat. 528 [U.S. Code, title 48, sec. 1313].)

CROSS-REFERENCES

Carrying and keeping of arms, see sections 871 to 876 of this title.

Disorderly conduct or breach of peace, see also sections 602 and 603 of this title.

Security to keep the peace, see title 6, sections 41 to 53.

592. Violation of such regulations.—Any person who violates any of the police regulations authorized under the next preceding section, shall be punished by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both such fine and imprisonment. (Aug. 21, 1916, ch. 371, sec. 5, 39 Stat. 528 [U.S. Code, title 48, sec. 1314].)

593. Disturbance of religious or other meetings.—Every person who:

a. Willfully disturbs or disquiets any assemblage of people met for religious worship, or any other purpose not unlawful in character, by noise, profane discourse, rude or indecent behavior, or by any unnecessary noise, either within the place where the meeting is held or so near as to disturb the order and solemnity of the meeting; or

b. Without authority of law, willfully disturbs or breaks up any assembly or meeting not unlawful in its character;

Is guilty of a misdemeanor.

594. Riot defined.—Any use of force or violence disturbing the public peace, or any threat to use such force or violence, if accompanied by immediate power of execution by two or more persons acting together, and without authority of law, is a riot.

595. Punishment of riot.—Every person who participates in any riot is punishable by imprisonment in the penitentiary for not more than two years, or by a fine of not more than $2,000, or by both. (Feb. 21, 1933, ch. 109, sec. 78 [282], 47 Stat. 871.)

596. Rout defined.—Whenever two or more persons, assembled and acting together, make any atttempt or advance toward the commission of an act which would be a riot if actually committed, such assembly is a rout. (Feb. 21, 1933, ch. 109, sec. 79 [283], 47 Stat. 871.)

597. Unlawful assembly defined.—Whenever two or more persons assemble together to do an unlawful act and separate without doing or advancing toward it, or do a lawful act in violent, boisterous or tumultuous manner, such assembly is an unlawful assembly.

598. Punishment of rout or unlawful assembly.—Every person who participates in any rout or unlawful assembly is guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 80 [285], 47 Stat. 872.)

599. Remaining at place of riot, rout or unlawful assembly.—Every person remaining present at the place of any riot, rout or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same, is guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 81 [286], 47 Stat. 872.)

600. Public or police officer neglecting to disperse rioters.—If a public or police officer having notice of an unlawful or riotous assembly, mentioned in this chapter, neglects to proceed to the place of assembly or as near thereto as he can with safety, and to exercise the authority with which he is invested for suppressing the same and arresting the offenders, he is guilty of a misdemeanor.

601. Refusal to disperse upon lawful command.—If two or more persons assemble for the purpose of disturbing the public peace or committing any unlawful act, and do not disperse on being desired or commanded so to do by a public officer, the persons so offending are severally guilty of a misdemeanor.

602. Disturbing the peace.—Every person who:

a. Maliciously and willfully disturbs the peace or quiet of any neighborhood or person by loud or unusual noise, or by tumultuous or offensive conduct, or threatening, traducing, quarreling, challenging to fight or fighting; or

b. Upon the public streets or highways, fires any gun or pistol, or uses any vulgar, profane or indecent language within the presence or hearing of women or children in a loud and boisterous manner;

Is guilty of a misdemeanor.

603. Vagrants, beggars, loiterers and intoxicated persons; disorderly conduct; breach of peace.—Every vagrant or person found within the Canal Zone without legitimate business or visible means of support;

b. Every mendicant or habitual beggar found within the Canal Zone;

c. Every person found within or loitering about any laborers' camp, mess house, quarters or other Panama Canal building, or any railroad car or station or other building of the Panama Railroad

Company, or any dwelling or other building owned by any private person, partnership or corporation, without due and proper authority and permission so to be; or peddling goods or merchandise about any laborers' camp or mess house during hours when laborers are ordinarily employed at work, or in or about places where groups of men are at work;

d. Every person found in any public place in such a state of intoxication as to disturb others, or unable, by reason of his condition, to care for his own safety or of the safety of others; and

e. Every person who shall, in the Canal Zone, engage in any kind of disorderly conduct or breach or disturbance of the peace;

Shall be punished by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both. (Feb. 21, 1933, ch. 109, sec. 82 [293a], 47 Stat. 872.)

Cross-References

Intoxication as a defense to criminal charge, see section 58 of this title.
Driving motor vehicle while intoxicated, see sections 512 and 513 of this title.
Act of intoxicated physician endangering life, see section 372 of this title.

604. Drawing deadly weapon in threatening manner.—Every person who, not in necessary self-defense, in the presence of two or more persons, draws or exhibits any deadly weapon in a rude, angry and threatening manner, is guilty of a misdemeanor.

Cross-Reference

Carrying and keeping of arms, see sections 871 to 876 of this title.

605. Forcibly entering upon or detaining real property.—Every person using or procuring, encouraging or assisting another to use any force or violence in entering upon or detaining any lands or other real property, public or private, except in the cases and in the manner allowed by law, is guilty of a misdemeanor.

606. Prize fighting prohibited; authority to regulate boxing exhibitions.—A person who:

a. Engages in, instigates, aids, encourages or does any act to further a fight commonly called a ring or prize fight;

b. Engages in a public or private sparring exhibition, with or without gloves, within the Canal Zone;

c. Sends or publishes a challenge or acceptance of a challenge for such an exhibition or fight; or

d. Trains or assists any person in training or preparing for such an exhibition or fight;

Shall be imprisoned in the penitentiary for not more than three years, or be fined not more than $5,000, or both; except that the provisions of this section shall not apply to voluntary boxing or sparring exhibitions conducted under rules and regulations to be promulgated by the President or by the Governor of the Panama Canal by authority of the President. (Sept. 21, 1922, ch. 370, sec. 4 [288], 42 Stat. 1007.)

607. Spectators at prize fights.—Every person willfully present as a spectator at any exhibition or fight prohibited by the next preceding section is guilty of a misdemeanor. (Sept. 21, 1922, ch. 370, sec. 5 [289], 42 Stat. 1007.)

608. Cock fights, dog fights and bull fights prohibited.—Any person who:

a. Sets on foot, instigates, promotes or carries on any fight between cocks or other birds, or any dog fight, bull fight, or fight between other animals; or

b. Does any act as assistant, umpire or principal in furtherance of any fight between any such animals;

Shall be punished by a fine of not more than $50, or by imprisonment in jail for not more than thirty days, or by both. (July 2, 1932, ch. 391, 47 Stat. 568.)

609. Registration of guests in hotel, boarding or lodging house.—Every proprietor or manager of any hotel, boarding or lodging house in the Canal Zone shall keep a register of all guests, which shall clearly show the name, nationality and date of arrival of each guest, the place from whence he came and the date of his departure and destination. Any proprietor or manager failing to keep such register, or any guest failing or refusing to give true information for entry in such register, shall be guilty of a misdemeanor.

CROSS-REFERENCE

Keeping an inn in disorderly manner, see section 456 of this title.

CHAPTER 13.—CRIMES AGAINST THE REVENUE OF THE CANAL ZONE

Sec.
621. "Public moneys" defined.
622. Offenses by persons charged with receipt and disbursement of public moneys.
623. Offenses by Canal and Railroad employees who collect or receive public moneys.
624. Officers neglecting to pay over public moneys.
625. Failure to pay over fines and forfeitures received.
626. Failure to give proper tax or license receipts.
627. Possession of improper blank licenses or tax receipts.

Section 621. "Public moneys" defined.—The words "public moneys," as used in sections 622 to 624 of this title, include all bonds, evidences of indebtedness and moneys belonging to the United States, the Government of the Canal Zone, the Panama Canal, or the Panama Railroad Company, and all moneys, bonds and evidences of indebtedness received or held by Canal Zone or Panama Railroad officers or employees in their official capacity. (Feb. 21, 1933, ch. 109, sec. 84 [297], 47 Stat. 873.)

622. Offenses by persons charged with receipt and disbursement of public moneys.—Any officer of the Government of the Canal Zone and any person charged with the receipt, safekeeping, transfer or disbursement of public moneys who either:

a. Without authority of law appropriates the same or any portion thereof to his own use or to the use of another;

b. Loans the same or any portion thereof, or makes a profit out of, or uses the same for any purpose not authorized by law;

c. Fails to keep the same in his possession until disbursed or paid out by authority of law;

d. Unlawfully deposits the same or any portion thereof in any bank or with any banker or other person;

e. Changes or converts any portion thereof from coin into currency, or from currency into coin or other currency, without authority of law;

f. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the same;

g. Fraudulently alters, falsifies, conceals, destroys or obliterates any account, or documents relating thereto;

h. Willfully refuses or omits to pay over, on demand, any public moneys in his hands, upon the presentation of a draft, order or warrant drawn upon such moneys by competent authority;

i. Willfully omits to transfer the same when such transfer is required by law; or

j. Willfully omits or refuses to pay over to any officer or person authorized by law to receive the same, any money received by him under any duty imposed by law so to pay over the same;

Is punishable by imprisonment in the penitentiary for not more than ten years, and is disqualified from holding any office in the Canal Zone. (Feb. 21, 1933, ch. 109, sec. 82a [294], 47 Stat. 872.)

623. Offenses by Canal and Railroad employees who collect or receive public moneys.—Any employee of the United States, the Panama Canal or the Panama Railroad Company, who collects or receives public moneys, and who:

a. Fails fully and promptly to account for any and all public funds, fines, internal revenue stamps, licenses, receipts, books, documents, records, papers or any other form of public property;

b. Is guilty of any extortion or willful oppression under color of law;

c. Knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation or reward except as herein provided for the performance of any duty;

d. Willfully neglects to perform any of the duties enjoined upon him by law;

e. Conspires or colludes with any person to defraud the public revenues;

f. Makes opportunities for any person to defraud the public revenues;

g. Does or omits to do any act with intent to enable any other person to defraud the public revenues;

h. Negligently or designedly permits any violation of the law by any person;

i. Makes or signs any false entry in any book, or makes or signs any false certificate or return in any case where he is required by law to make any entry, certificate or return;

j. Having knowledge or information of the violation of any provision of the law respecting public revenues by any person, or of fraud committed by any person against the public revenues, fails to report such violation or fraud in writing to the designated authority;

k. Demands, accepts or attempts to collect, directly or indirectly, as payment, gift or otherwise, any sum of money or other thing of value for the compromise, adjustment or settlement of any charge or complaint for any violation or alleged violation of the law respecting public revenues; or

l. Divulges or makes known to any person, in any manner whatsoever not provided by law, the accounts, condition of business affairs or manner of conducting the same of any person, association or corporation whose books, accounts and business operations may have been investigated in the discharge of his duties;

Shall be imprisoned in the penitentiary for not more than five years, or be fined not more than $2,000, or both, and shall be dismissed from office. For the purpose of this section, all funds, moneys and properties of the Panama Railroad Company shall be deemed public funds. (Feb. 21, 1933, ch. 109, sec. 83 [295], 47 Stat. 872.)

624. Officers neglecting to pay over public moneys.—Every officer charged with the receipt, safekeeping or disbursement of public moneys, who neglects or fails to keep and pay over the same in the manner prescribed by law, is guilty of a felony.

625. Failure to pay over fines and forfeitures received.—Any clerk, marshal or other officer who receives any fine or forfeiture or other moneys and who refuses or neglects to pay over the same according to law, and within thirty days after the receipt thereof, is punishable by imprisonment in jail for not more than six months, or by a fine of not more than $500, or by both. (Feb. 21, 1933, ch. 109, sec. 85 [298], 47 Stat. 873.)

626. Failure to give proper tax or license receipts.—Every person who:

a. Uses or gives any receipt, except that prescribed by law, as evidence of payment of any tax or license of any kind;

b. Receives payment of such tax or license without delivering the receipt prescribed by law; or

c. Inserts the name of more than one licensee therein;

Is guilty of a misdemeanor.

627. Possession of improper blank licenses or tax receipts.—Every person who has in his possession, with intent to circulate or sell, any blank licenses or tax receipts other than those furnished by the proper authority, is guilty of a felony.

CHAPTER 14.—CRIMES AGAINST PROPERTY

Art. Sec.
1. Arson ---------- 641
2. Burglary and possession of burglarious instruments ---------- 651
3. Embezzlement ---------- 661
4. Extortion ---------- 681
5. False personation; other frauds in general ---------- 691
6. False weights and measures ---------- 711
7. Forgery and counterfeiting and related offenses ---------- 721
8. Fraudulent insolvencies by corporations, and other frauds in their management ---------- 751
9. Larceny and related offenses ---------- 771
10. Malicious mischief, in general ---------- 801
11. Malicious and other injuries to Panama Canal and other public or semi-public property ---------- 821
12. Offenses against the telegraph, telephone, or cable service ---------- 851

ARTICLE 1.—ARSON

Sec.
641. Arson defined.
642. Various terms defined.
643. Degrees of arson.
644. Punishment of arson.

Section 641. Arson defined.—Arson is the willful and malicious burning of a building with intent to destroy it. (Feb. 21, 1933, ch. 109, sec. 88 [306], 47 Stat. 873.)

CROSS-REFERENCES

Burning bridges, see section 823 of this title.
Burning building or vessel not the subject of arson, see section 803 of this title.
Conspiracy to commit arson, overt act not necessary, see section 82 of this title.
Firing grass, see section 571 of this title.
Fraudulent destruction of property insured, see section 705 of this title.
Interference with firemen, see section 572 of this title.

642. Various terms defined.—As used in this article:

a. "Building" means and includes any house, edifice, structure, vessel or other erection capable of affording shelter for human beings or appurtenant to or connected with an erection so adapted.

b. "Burning" means the application of fire so as to take effect upon any part of the substance of the building. To constitute a burning it is not necessary that the building set on fire shall have been destroyed.

c. "Inhabited building" means any building which has usually been occupied by any person lodging therein at night.

d. "Nighttime" means the period between sunset and sunrise.

643. Degrees of arson.—Arson is divided into two degrees. Arson in the first degree is the malicious burning in the nighttime of an inhabited building in which there is at the time some human being. All other kinds of arson are of the second degree.

644. Punishment of arson.—Arson is punishable by imprisonment in the penitentiary as follows:

a. Arson in the first degree, for not less than ten years; and

b. Arson in the second degree, for not more than ten years.

ARTICLE 2.—BURGLARY AND POSSESSION OF BURGLARIOUS INSTRUMENTS

Sec.
651. Burglary defined.
652. Burglary in first degree; burglary in second degree.
653. "Nighttime" defined.
654. Punishment for burglary.
655. Possessing or making burglarious instruments.

651. Burglary defined.—Every person who enters any house, room, apartment, tenement, shop, warehouse, store, barn, stable, outhouse or other building, tent, vessel or car, with intent to commit grand or petit larceny, or any felony, is guilty of burglary.

CROSS-REFERENCES

Larceny, see sections 771 to 789 of this title.
Robbery, see sections 291 to 294 of this title.
Conspiracy to commit burglary, overt act not necessary, see section 82 of this title.

652. Burglary in first degree; burglary in second degree.—Every burglary committed in the nighttime is burglary in the first degree, and every burglary committed in the daytime is burglary in the second degree.

653. "Nighttime" defined.—The word "nighttime" as used in this article means the period between sunset and sunrise.

654. Punishment for burglary.—Burglary in the first degree is punishable by imprisonment in the penitentiary for not more than fifteen years. Burglary in the second degree is punishable by imprisonment in the penitentiary for not more than five years.

655. Possessing or making burglarious instruments.—Every person who:

a. Has upon him or in his possession a picklock, crow, key, bit or other instrument or tool with intent feloniously to break or enter into any building;

b. Knowingly makes or alters any key or other instrument above named, so that the same will fit or open the lock of a building, without being requested so to do by some person having the right to open the same; or

c. Makes, alters or repairs any instrument or thing, knowing or having reason to believe that it is intended to be used in committing a misdemeanor or felony;

Is guilty of a misdemeanor. Any of the structures mentioned in section 651 of this title shall be deemed to be a building within the meaning of this section.

ARTICLE 3.—EMBEZZLEMENT

Sec.
661. Embezzlement defined.
662. Embezzlement by officers or persons generally.
663. Embezzlement by various classes of fiduciaries.
664. Embezzlement by carriers or others.
665. Embezzlement by bailee or tenant.
666. Embezzlement by clerk, agent or servant.
Sec.
667. Evidence of debt as subject of embezzlement.
668. Claim of title as defense.
669. Intent to restore property as defense.
670. Actual restoration as ground for mitigation of punishment.
671. Punishment of embezzlement.

661. Embezzlement defined.—Embezzlement is the fraudulent appropriation of property by a person to whom it has been intrusted.

Cross-References

Bringing embezzled property into Zone, see sections 56 and 788 of this title.

Disposal of embezzled property which is recovered, see title 6, sections 821 to 827.

Informations for embezzlement, see title 6, section 204.

Proof of embezzlement, see title 6, section 381.

662. Embezzlement by officers or persons generally.—Every officer of the Government of the Canal Zone, or deputy, clerk or servant of such officer, and every officer, director, trustee, clerk, servant, attorney or agent of any association, society or corporation, public or private, and every other person, who fraudulently appropriates to any use or purpose not in the due and lawful execution of his trust, any property which he has in his possession or under his control by virtue of his trust, or secretes it with a fraudulent intent to appropriate it to such use or purpose, is guilty of embezzlement. (Feb. 21, 1933, ch. 109, sec. 99 [359], 47 Stat. 876.)

663. Embezzlement by various classes of fiduciaries.—Every trustee, banker, merchant, broker, attorney, agent, assignee in trust, executor, administrator, collector or person otherwise intrusted with or having in his control property for the use of any other person who fraudulently appropriates it to any use or purpose not in the due and lawful execution of his trust, or secretes it with a fraudulent intent to appropriate it to such use or purpose, is guilty of embezzlement.

664. Embezzlement by carriers or others.—Every carrier or other person having under his control personal property for the purpose of transportation for hire, who fraudulently appropriates it to any use or purpose inconsistent with the safe-keeping of the property and its transportation according to his trust, is guilty of embezzlement, whether he has broken the package in which the property is contained or has otherwise separated the items thereof or not.

665. Embezzlement by bailee or tenant.—Every person entrusted with any property as bailee, tenant or lodger, or with any power of attorney for the sale or transfer thereof, who fraudulently converts the same or the proceeds thereof to his own use or secretes it or them with a fraudulent intent to convert to his own use, is guilty of embezzlement.

666. Embezzlement by clerk, agent or servant.—Every clerk, agent or servant of any person who fraudulently appropriates to his own use, or secretes with a fraudulent intent to appropriate to his own use, any property of another which has come into his control or care by virtue of his employment as such clerk, agent or servant, is guilty of embezzlement.

667. Evidence of debt as subject of embezzlement.—Any evidence of debt, negotiable by delivery only, and actually executed, may be the subject of embezzlement, whether it has been delivered or issued as a valid instrument or not. Where the property embezzled is in evidence of debt or right of action, the sum due upon it or evidenced to be paid by it shall be taken as its true value. (Sept. 21, 1922, ch. 370, sec. 7 [368], 42 Stat. 1007.)

668. Claim of title as defense.—Upon any information for embezzlement, it is a sufficient defense that the property was appropriated openly and avowedly, and under a claim of title preferred in good faith, even though such claim is untenable. But this provision does not excuse the unlawful retention of the property of another to offset or pay demands held against him.

669. Intent to restore property as defense.—The fact that the accused intended to restore the property embezzled is no ground of defense or of mitigation of punishment, if it has not been restored before a complaint has been laid before a magistrate or an information has been filed in the district court charging the commission of the offense. (Feb. 21, 1933, ch. 109, sec. 100 [366], 47 Stat. 876.)

670. Actual restoration as ground for mitigation of punishment.—Whenever, prior to any complaint laid before a magistrate or an information filed in the district court, charging the commission of embezzlement, the person accused voluntarily and actually restored or tendered restoration of the property alleged to have been embezzled, or any part thereof, such fact is not a ground of defense, but it authorizes the court to mitigate punishment, in its discretion. (Feb. 21, 1933, ch. 109, sec. 101 [367], 47 Stat. 876.)

671. Punishment of embezzlement.—Every person guilty of embezzlement is punishable in the manner prescribed for feloniously stealing property of the value of that embezzled. (Sept. 21, 1922. ch. 370, sec. 7 [368], 42 Stat. 1007.)

ARTICLE 4.—EXTORTION

Sec.
681. Extortion defined.
682. What threats may constitute extortion.
683. Punishment of extortion generally.
684. Punishment of extortion committed under color of official right.
685. Obtaining signature by means of threats.
686. Sending threatening letters with intent to extort money.
687. Attempts to extort money by verbal threats.
688. Overcharges by agents of common carriers.

681. Extortion defined.—Extortion is the obtaining of property from another with his consent induced by a wrongful use of force or fear or under color of official right.

Cross-References

Extortion by executive or ministerial officer, see section 94 of this title.
Extortion by judicial officer, see section 123 of this title.
Offer to prevent publication of libel with intent to extort money, see section 362 of this title.

682. What threats may constitute extortion.—Fear such as will constitute extortion may be induced by a threat, either:

a. To do an unlawful injury to the person or property of the individual threatened or to any relative of his or member of his family;

b. To accuse him or any relative of his or member of his family of any crime;

c. To expose or impute to him or them any deformity or disgrace; or

d. To expose any secret affecting him or them.

683. Punishment of extortion generally.—Every person who extorts any money or other property from another, under circumstances not amounting to robbery, by means of force, or any threat, such as is mentioned in the next preceding section, is punishable by imprisonment in the penitentiary for not more than five years.

684. Punishment of extortion committed under color of official right.—Every person who commits any extortion under color of official right, in cases for which a different punishment is not prescribed in this title, is guilty of a misdemeanor.

Cross-References

Extortion by executive or ministerial officers, see section 94 of this title.
Extortion by judicial officer, see section 123 of this title.

685. Obtaining signature by means of threats.—Every person who, by any extortionate means, obtains from another his signature to any paper or instrument, whereby, if such signature were freely given, any property would be transferred, or any debt, demand, charge or right of action created, is punishable in the same manner as if the actual delivery of property of the value or amount of such debt, demand, charge or right of action were obtained.

686. Sending threatening letters with intent to extort money.—Every person who, with intent to extort any money or other property from another, sends or delivers to any person any letter or other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat such as is specified in section 682 of this title, is punishable in the same manner as if such money or property were actually obtained by means of the threat.

687. Attempts to extort money by verbal threats.—Every person who unsuccessfully attempts, by means of any verbal threat, such as is specified in section 682 of this title, to extort money or other property from another, is guilty of a misdemeanor.

688. Overcharges by agents of common carriers.—Every officer, agent or employee of a railroad company or other common carrier, who asks or receives a greater sum than is allowed by law for the carriage of passengers or freight, is guilty of a misdemeanor.

ARTICLE 5.—FALSE PERSONATION; OTHER FRAUDS IN GENERAL

Sec.
691. Personating another and incurring liability.
692. Marrying under false personation.
693. Receiving money or property in a false character.
694. Fraudulent conveyances.
695. Obtaining money or property by false pretenses.
696. Selling property twice.
697. Removal, sale or further incumbrance of mortgaged personal property.
698. Married person selling lands under false representations.

Sec.
699. False or fraudulent sale of property; mock auctions.
700. False statements by commission merchants or factors.
701. Defrauding inns or boarding houses.
702. Defrauding pledgees.
703. Frauds practiced to affect market price of property.
704. Fraud in affairs of partnership.
705. Injury to or destruction of insured property.
706. Misrepresentation of newspaper circulation.

691. Personating another and incurring liability.—Every person who falsely personates another and in such assumed character either:

a. Becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take such bail or surety;

b. Verifies, publishes, acknowledges or proves, in the name of another person, any written instrument, with intent that the same may be recorded, delivered and used as true; or

c. Does any other act whereby, if it were done by the person falsely personated, he might in any event become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture or penalty, or whereby any benefit might accrue to the party personating, or to any other person;

Is punishable by imprisonment in jail for not more than two years or by a fine of not more than $5,000.

CROSS-REFERENCES

Conspiracy to cheat and defraud, see section 81 of this title.
Proof of intent to defraud, see title 6, section 375.

692. Marrying under false personation.—Every person who falsely personates another, and in such assumed character marries or pretends to marry, or to sustain the marriage relation towards another, with or without the connivance of another, is guilty of a felony.

693. Receiving money or property in a false character.—Every person who falsely personates another, and in such assumed character receives any money or property, knowing that it is intended to be delivered to the individual so personated, with intent to convert the same to his own use, or to that of another person, or to deprive the true owner thereof, is punishable in the same manner and to the same extent as for larceny of property so received.

694. Fraudulent conveyances.—Every person who:

a. Is a party to any fraudulent conveyance of any property, real or personal, or any right or interest issuing out of the same, or to any bond, suit, judgment or execution, contract or conveyance, had, made or contrived with intent to deceive and defraud others or to defeat, hinder or delay creditors or others of their just debts, damages or demands; or

b. Being a party as aforesaid, at any time wittingly and willingly puts in, uses, avows, maintains, justifies or defends the same or any of them as true and done, had or made in good faith or upon good consideration, or aliens, assigns or sells any of the property, real or personal, or other things before mentioned, to him or them conveyed as aforesaid, or any part thereof;

Is guilty of a misdemeanor.

695. Obtaining money or property by false pretenses.—Every person who:

a. Knowingly and designedly by false or fraudulent representation or pretenses defrauds any other person of money or property; or

b. Causes or procures others to report falsely of his wealth or mercantile character and by thus imposing upon any person obtains credit and thereby fraudulently gets into possession of money or property;

Is punishable in the same manner and to the same extent as for larceny of the money or property so obtained.

CROSS-REFERENCE

Proof of obtaining money or property by false pretenses, see title 6, section 379.

696. Selling property twice.—Every person who, after once selling, bartering or disposing of any property, real or personal, or any interest therein, or after executing any bond or agreement for the sale of any of such property, again willfully and with intent to defraud previous or subsequent purchasers, sells, barters or disposes of the same property, or any part thereof or interest therein, or willfully and with intent to defaud previous or subsequent purchasers, executes any bond or agreement to sell, barter or dispose of the same property, or any part thereof or interest therein, to any other person for a valuable consideration, is punishable by imprisonment in the penitentiary for not more than ten years. (Feb. 21, 1933, ch. 109, sec. 101a [383], 47 Stat. 877.)

697. Removal, sale or further incumbrance of mortgaged personal property.—Every person who after mortgaging any personal property, during the existence of such mortgage and with intent to defraud the mortgagee, his representative or assigns:

a. Takes, drives, carries away or otherwise removes or permits the taking, driving or carrying away or other removal of the mortgaged property or any part thereof from the Canal Zone, without the written consent of the mortgagee; or

b. Sells, transfers or in any manner further incumbers the mortgaged property, or any part thereof, or causes the same to be sold, transferred or further incumbered, unless at or before the time of making the sale, transfer or incumbrance, the mortgagor informs the person to whom the sale, transfer or incumbrance is made, of the existence of the prior mortgage, and also informs the prior mortgagee of the intended sale, transfer or incumbrance, in writing, by giving the name and place of residence of the party to whom the sale, transfer or incumbrance is to be made;

Is guilty of larceny and is punishable accordingly. (Feb. 21, 1933 c. 109, sec. 102a [389a], 47 Stat. 877.)

698. Married person selling lands under false representations.—Every married person who falsely and fraudulently represents himself or herself as competent to sell or mortgage any real estate, to the validity of which sale or mortgage the assent or concurrence of his wife or her husband is necessary, and under such representations willfully conveys or mortgages the same, is guilty of a felony.

699. False or fraudulent sale of property; mock auctions.—Every person who obtains any money or property from another, or obtains the signature of another to any written instrument, the false making of which would be forgery, by means of any false or fraudulent sale of property or pretended property, by auction, or by any of the practices known as mock auctions, is punishable by imprisonment in the penitentiary for not more than three years, or by a fine of not more than $1,000, or by both.

700. False statements by commission merchants or factors.—Every commission merchant, broker, agent, factor or consignee, who shall willfully and corruptly make, or cause to be made, to the principal or consignor of such commission merchant, agent, broker, factor or consignee, a false statement concerning the price obtained for or the quality or quantity of any property consigned or intrusted to such commission merchant, agent, broker, factor or consignee, for sale, shall be punished by imprisonment in jail for not more than six months, or by a fine of not more than $500, or by both. (Feb. 21, 1933, ch. 109, sec. 102 [386], 47 Stat. 877.)

701. Defrauding inns or boarding houses.—Any person who obtains any food or accommodation at an inn or boarding house without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at an inn or boarding house by the use of any false pretense, or who, after obtaining credit or accommodation at any inn or boarding house, absconds or surreptitiously removes his baggage therefrom without paying for his food or accommodation, is guilty of a misdemeanor.

702. Defrauding pledgees.—Every person who, after pledging as security any real or personal property whatever for a loan or other security, during the existence of the pledge, with intent to defraud the pledgee, his representatives or assigns, transfers, sells, takes, drives or carries away or otherwise disposes of the property, or any part thereof, without the written consent of the pledgee, is guilty of larceny, and shall be punished accordingly.

703. Frauds practiced to affect market price of property.—Every person who willfully makes or publishes any false statement, spreads any false rumor, or employs any other false or fraudulent means or device, with intent to affect the market price of any kind of property, is guilty of a misdemeanor.

704. Fraud in affairs of partnership.—Every member of a partnership who commits any fraud upon the other members in the affairs of the partnership, is punishable by imprisonment in the penitentiary for not more than one year. (Feb. 21, 1933, ch. 109, sec. 65 [243], 47 Stat. 869.)

CROSS-REFERENCE

Obligation of partners to act in good faith, see title 3, section 1732.

705. Injury to or destruction of insured property.—Every person who willfully burns or in any other manner injures or destroys any property which is at the time insured against loss or damage by fire, or by any other casualty, with intent to defraud or prejudice the insurer, whether the same be the property of or in the possession of such person, or of any other, is punishable by imprisonment in the penitentiary for not more than ten years. (Feb. 21, 1933, ch. 109, sec. 102b [390], 47 Stat. 877.)

706. Misrepresentation of newspaper circulation.—Every proprietor or publisher of any newspaper or periodical who willfully and knowingly misrepresents the circulation of such newspaper or periodical for the purpose of securing advertising or other patronage, shall be guilty of a misdemeanor.

ARTICLE 6.—FALSE WEIGHTS AND MEASURES

Sec.
711. False weight or measure defined.
712. Using false weights or measures.
713. Marking false weight or measure on casks or packages.
714. Short weight in sale of commodities by ton.
715. Short weight or measure in selling merchandise.
716. Padding weight or measurement of goods in containers or packages.

711. False weight or measure defined.—A false weight or measure is one which does not conform to the standard established by law.

CROSS-REFERENCE

False labels, adulterations, etc., see sections 541 to 543 of this title.

712. Using false weights or measures.—Every person who uses any weight or measure, knowing it to be false, by which use another is defrauded or otherwise injured, is guilty of a misdemeanor.

713. Marking false weight or measure on casks or packages.—Every person who knowingly marks or stamps false or short weight or measure, or false tare, on any cask or package, or knowingly sells or offers for sale any cask or package so marked, is guilty of a misdemeanor.

714. Short weight in sale of commodities by ton.—In all sales of sugar, coal, and other commodities usually sold by the ton or fractional parts thereof, the seller must give to the purchaser full weight, and any person violating this section shall be punished as for a misdemeanor.

715. Short weight or measure in selling merchandise.—In all sales of merchandise, wares, articles of food, or drink or whatever else is purchased by weight or measure, the seller must give to the purchaser full weight or measure, and any person violating this section shall be punished as for a misdemeanor.

716. Padding weight or measurement of goods in containers or packages.—Any person who places in bales, bags, boxes, barrels or other packages of sugar, tobacco, coffee, rice or other goods usually sold in bales, bags, boxes, barrels or other packages, by weight or otherwise, and conceals therein anything whatever for the purpose of increasing the weight or measurement of such bales, bags, boxes, barrels or other packages, with intent thereby to sell the goods therein, or to enable another to sell the same for an increased weight or measurement, is guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 72 [258], 47 Stat. 871.)

ARTICLE 7.—FORGERY AND COUNTERFEITING AND RELATED OFFENSES

Sec.
721. Forging, altering or counterfeiting instrument or record; uttering false instrument.
722. Making false entries in records or returns.
723. Forgery of public or corporate seals.
724. Punishment of forgery.
725. Forging telegraph or telephone message.
726. Possessing or receiving false or unfinished promissory note or bill.
727. Making, possessing or uttering fictitious bill, note or check.
728. Drawing or uttering bank check with intent to defraud.
729. Counterfeiting or uttering of counterfeited coin or bullion.
730. Punishment of counterfeiting.
731. Possessing or receiving counterfeit coin or bullion.
732. Forging or counterfeiting government securities or obligations.
Sec.
733. Uttering forged or counterfeit government securities or obligations.
734. Making or counterfeiting bank note or bill.
735. Uttering or passing false bank note or bill.
736. Possessing false securities, bank notes or bills.
737. Making or posessing counterfeit dies or plates.
738. Possessing, using or importing plates for printing government or corporate securities.
739. Counterfeiting railroad tickets or tickets of other common carrier.
740. Restoring canceled railroad tickets.
741. Altering clubhouse, commissary or restaurant checks or coupons.
742. Issuing instruments to circulate as money.

721. Forging, altering or counterfeiting instrument or record; uttering false instrument.—Every person who:

a. With intent to defraud another, falsely makes, alters, forges or counterfeits any charter, letters patent, deed, lease, indenture, writing obligatory, will, testament, codicil, annuity, bond, covenant, bank bill or note, post note, check, draft, bill of exchange, contract, promissory note, due bill for the payment of money or property, receipt for money or property, passage ticket, power of attorney, or any certificate for any share, right or interest in the stock of any corporation or association, or any warrant or order for the payment of money at the treasury, treasurer's order or warrant; or any request for the payment of money or for the delivery of personal property of any kind or of any instrument in writing, acquittance, release or discharge for any debt, account, suit, action, demand or other thing, real or personal; or any transfer or assurance of money, certificate or share of stock, personal property or other property whatever; or any letter of attorney or other power to receive money or to receive or transfer certificates of shares of stock or annuities or to let, lease, dispose of, alien or convey any real or personal property; or any acceptance or indorsement of any bill of exchange, promissory note, draft, order or assignment of any bonds, writing obligatory, or promissory note for money or other property;

b. With intent to defraud another, counterfeits or forges the seal or handwriting of another;

c. Utters, publishes, passes or attempts to pass, as true and genuine, any of the above named false, altered, forged or counterfeited matters, as above specified and described, knowing the same to be false, altered, forged or counterfeited, with intent to prejudice, damage or defraud any person; or

d. With intent to defraud, alters, corrupts or falsifies any record of any will, codicil, conveyance or other instrument, the record of which is by law evidence, or any record of any judgment of a court, or the return of any officer to any process of a court;

Is guilty of forgery.

CROSS-REFERENCES

Forging or counterfeiting passport, see U.S. Code, title 22, section 222 (appendix, p. 963).

Forging public records and documents, see sections 131 to 133 of this title.

Information for forgery, see title 6, section 202.

Proof of forgery, see title 6, section 380.

722. Making false entries in records or returns.—Every person who, with intent to defraud another, makes, forges or alters any entry in any book of records, or any instrument purporting to be any record or return specified in the next preceding section, is guilty of forgery.

723. Forgery of public or corporate seals.—Every person who, with intent to defraud another:

a. Forges or counterfeits the seal of the Government of the Canal Zone, the seal of any public officer authorized by law, the seal of any court of record, or the seal of any corporation, or any other public seal authorized or recognized by the laws of the Canal Zone, or of any State, government or country;

b. Falsely makes, forges or counterfeits any impression purporting to be an impression of any such seal; or

c. Has in his possession any such counterfeited seal, or impression thereof, knowing it to be counterfeited and willfully conceals the same;

Is guilty of forgery.

724. Punishment of forgery.—Forgery is punishable by imprisonment in the penitentiary for not more than fourteen years. (Feb. 21, 1933, ch. 109, sec. 89 [324], 47 Stat. 873.)

725. Forging telegraph or telephone message.—Every person who:

a. Knowingly and willfully sends by telegraph or telephone to any person a false or forged message purporting to be from a telegraph or telephone office or from any other person;

b. Willfully delivers or causes to be delivered to any person any such message falsely purporting to have been received by telegraph or telephone; or

c. Furnishes or conspires to furnish or causes to be furnished to any agent, operator or employee, to be sent by telegraph or telephone or to be delivered, any such message, knowing the same to be false or forged, with the intent to deceive, injure or defraud another;

Is punishable by imprisonment in the penitentiary for not more than five years, or in jail for not more than one year, or by a fine of not more than $5,000, or by both such fine and imprisonment. (Feb. 21, 1933, ch. 109, sec. 90 [325], 47 Stat. 873.)

726. Possessing or receiving false or unfinished promissory note or bill.—Every person who:

a. Has in his possession or receives from another person any forged promissory note or bank bill, or bill for payment of money or property, with the intention to pass the same or to permit, cause or procure the same to be uttered or passed, with the intention to defraud any person, knowing the same to be forged or counterfeited; or

b. Has or keeps in his possession any blank or unfinished note or bill made in the form or similitude of any promissory note or bill for payment of money or property, made to be issued by any incorporated bank or banking company, with intention to fill up and complete such blank and unfinished note or bill, or to permit or cause or procure the same to be filled up and completed, in order to utter or pass the same, or to permit or cause or procure the same to be uttered or passed, or to defraud any person;

Is punishable by a fine of not more than $1,000 or by imprisonment in the penitentiary for not more than five years, or by both. (Feb. 21, 1933, ch. 109, sec. 91 [326], 47 Stat. 874.)

727. Making, possessing, or uttering fictitious bill, note or check.—Every person who, with intent to defraud another, makes, passes, utters or publishes, or attempts to pass, utter or publish, or who has in his possession, with like intent to utter, pass or publish, any fictitious bill, note or check, purporting to be the bill, note, check or other instrument in writing for the payment of money or property of some bank, corporation, copartnership or individual, when in fact there is no such bank, corporation, copartnership or individual in existence, knowing the bill, note, check or instrument in writing to be fictitious, is punishable by imprisonment in the penitentiary for not more than five years. (Feb. 21, 1933, ch. 109, sec. 91a [327], 47 Stat. 874.)

728. Drawing or uttering bank check with intent to defraud.—Every person who for himself or as the agent or representative of another or as an officer of a corporation, willfully, with intent to defraud, makes, draws, utters or delivers to another person any check or draft on a bank, banker or depositary for the payment of money, knowing at the time of such making, drawing, uttering or delivery, that he or his principal or the corporation of which he is an officer has not sufficient funds in, or credit with such bank, banker or depositary, to meet such check or draft in full upon its presentation, is punishable by imprisonment in jail for not more than one year or in the penitentiary for not more than fourteen years. The word " credit " as herein used shall be construed to be an arrangement or understanding with the bank or depositary for the payment of such check or draft. (Feb. 21, 1933, ch. 109, sec. 92 [327a], 47 Stat. 874.)

729. Counterfeiting or uttering of counterfeited coin or bullion.—Every person who, with intent to defraud any person:

a. Counterfeits any of the species of gold or silver coin current in the Canal Zone, or any kind or species of gold dust, gold or silver bullion, or bars, lumps, pieces or nuggets;

b. Sells, passes or gives in payment such counterfeit coin, dust, bullion, bars, lumps, pieces or nuggets; or

c. Permits, causes or procures the same to be sold, uttered or passed;

Is guilty of counterfeiting.

CROSS-REFERENCES

For other provisions defining offenses against currency, coinage, etc., see U.S. Code, title 18, sections 261 et seq. (appendix, p. 907).

Using mails to dispose of counterfeit money, see U.S. Code, title 18, section 338 (appendix, p. 923).

Issuing or circulating paper money, see section 742 of this title.

Counterfeiting Government seal, see U.S. Code, title 18, sections 130 to 133 (appendix, p. 906).

730. Punishment of counterfeiting.—Counterfeiting is punishable by imprisonment in the penitentiary for not more than five years. (Feb. 21, 1933, ch. 109, sec. 92a [329], 47 Stat. 875.)

731. Possessing or receiving counterfeit coin or bullion.—Every person who has in his possession, or receives from any other person, any counterfeit gold or silver coin of the species current in the Canal Zone, or any counterfeit gold dust, gold or silver bullion, or bars, lumps, pieces or nuggets, with the intention to sell, utter, put off or pass the same, or to permit, cause or procure the same to be sold, uttered or passed, with intention to defraud any person, knowing the same to be counterfeit, is punishable by imprisonment in the penitentiary for not more than five years. (Feb. 21, 1933, ch. 109, sec. 92b [330], 47 Stat. 875.)

CROSS-REFERENCE

See also U. S. Code, title 18, section 277 (appendix, p. 910).

732. Forging or counterfeiting government securities or obligations.—Every person who, within the Canal Zone and with intent to defraud:

a. Falsely makes, alters, forges or counterfeits any bond, certificate, obligation or other security in imitation of, or purporting to be an imitation of, any bond, certificate, obligation or other security of the Government of the United States or any State or Territory thereof, or any foreign government, issued or put forth under the authority of the United States or any State or Territory thereof, or any foreign government; or any treasury note, bill or promise to pay issued by the Government of the United States or any State or Territory thereof or any foreign government, and intended to circulate as money either by law, order or decree of the Government of the United States or any State or Territory thereof or any foreign government; or

b. Causes or procures to be so falsely made, altered, forged or counterfeited, or knowingly aids or assists in making, altering, forging or counterfeiting any such bond, certificate, obligation or other security, or any such treasury note, bill or promise to pay, intended as aforesaid to circulate as money;

Shall be punished by a fine of not more than $5,000 and by imprisonment in the penitentiary for not more than five years.

733. Uttering forged or counterfeit government securities or obligations.—Every person who, knowingly and with intent to defraud, utters, passes or puts off, in payment or negotiation, within the Canal Zone, any such false, forged, or counterfeit bond, certificate, obligation, security, treasury note, bill, or promise to pay, as mentioned in the next preceding section, whether the same was made, altered, forged or counterfeited within the Canal Zone or not, shall be punished by a fine of not more than $3,000, and by imprisonment in the penitentiary for not more than three years.

CROSS-REFERENCE

See also U.S. Code, title 18, section 265 (appendix, p. 908).

734. Making or counterfeiting bank note or bill.—Every person who, within the Canal Zone and with intent to defraud, falsely makes, alters, forges or counterfeits, or causes or procures to be so made, altered, forged or counterfeited, or knowingly aids and assists in the false making, altering, forging or counterfeiting, of any bank note or bill issued by a bank or other corporation of the United States, State or Territory thereof, or any foreign country, and intended by the law or usage of the United States, State or Territory thereof, or any foreign country, to circulate as money, such bank or corporation being authorized by the laws of the United States, State or Territory thereof, or such foreign country, shall be punished by imprisonment in the penitentiary for not more than two years and by a fine of not more than $2,000.

735. Uttering or passing false bank note or bill.—Every person who shall, within the Canal Zone, utter, pass, put off, or tender in payment, with intent to defraud, any such false, forged, altered, or counterfeit bank note or bill as mentioned in the next preceding section, knowing the same to be so false, forged, altered or counterfeited, whether the same was made, altered, forged or counterfeited within the Canal Zone or not, shall be punished by imprisonment in the penitentiary for not more than one year and by a fine of not more than $1,000.

736. Possessing false securities, bank notes or bills.—Every person who, within the Canal Zone, shall:

a. Have in his possession any such false, forged or counterfeited bond, certificate, obligation, security, treasury note, bill, promise to pay, bank note, or bill issued by a bank or other corporation of the United States, State or Territory thereof, or any foreign country, with intent to utter, pass or put off the same, or to deliver the same to any other person with intent that the same may thereafter be uttered, passed or put off as true; or

b. Knowingly deliver the same to any other person, with such intent;

Shall upon conviction thereof be punished by a fine of not more than $1,000, or by imprisonment in the penitentiary for not more than five years, or by both. (Feb. 21, 1933, ch. 109, sec. 93 [336], 47 Stat. 875.)

737. Making or possessing counterfeit dies or plates.—Every person who makes, or knowingly has in his possession, any die, plate, or any apparatus, paper, metal, machine or other thing whatever, made use of in counterfeiting coins current in the Canal Zone, or in counterfeiting gold dust, gold or silver bars, bullion, lumps, pieces or nuggets, or in counterfeiting bank notes or bills, is punishable by imprisonment in the penitentiary for not more than five years; and all such dies, plates, apparatus, paper, metal or machines intended for the purpose aforesaid must be destroyed.

Cross-References

See, also, U.S. Code, title 18, sections 261 et seq. (appendix, p. 907).

738. Possessing, using or importing plates for printing Government or corporate securities.—Every person who, within the Canal Zone:

a. Has control, custody or possession of any plate or any part thereof from which has been printed or may be printed any counterfeit note, bond, obligation or other security, in whole or in part, of the Government of the United States, State or Territory thereof, or any foreign country, bank or corporation, except by lawful authority;

b. Uses such plate or knowingly permits or suffers the same to be used in counterfeiting the obligations aforesaid or any part thereof;

c. Engraves, or causes or procures to be engraved, or assists in engraving, any plate in the likeness or similitude of any plate designed for the printing of the genuine issue of the obligations aforesaid;

d. Prints, photographs or in any other manner makes, executes or sells, or causes to be printed, photographed, made, executed or sold, or aids in printing, photographing, making, executing or selling any engraving, photograph, print or impression in the likeness of any genuine note, bond, obligation or other security, or any part thereof, of the Government of the United States, State or Territory thereof, or any foreign country, bank or corporation; or

e. Brings into the Canal Zone any counterfeit plate, engraving, photograph, print or other impression of the notes, bonds, obligations or other securities of the United States, State or Territory thereof, or any foreign country, bank or corporation;

Shall be punished by imprisonment in the penitentiary for not more than five years, or by a fine of not more than $5,000, or by both.

CROSS-REFERENCE

See, also, U.S. Code, title 18, sections 261 et seq. (appendix, p. 907).

739. Counterfeiting railroad tickets or tickets of other common carrier.—Every person who:

a. Counterfeits, forges or alters any ticket, check, order, coupon, receipt for fare, or pass, issued by any railroad company or other common carrier or by any lessee or manager thereof, designed to entitle the holder to ride in the cars of such company; or

b. Utters, publishes or puts into circulation any such counterfeit or altered ticket, check or order, coupon, receipt for fare, or pass, with intent to defraud any such railroad company or other common carrier or any lessee thereof, or any other person;

Is punishable by imprisonment in the penitentiary, or in jail, for not more than one year, or by a fine of not more than $1,000, or by both such imprisonment and fine.

740. Restoring canceled railroad tickets.—Every person who:

a. For the purpose of restoring to its original appearance and nominal value, in whole or in part, removes, conceals, fills up or obliterates the cuts, marks, punch holes or other evidence of cancelation, from any ticket, check, order, coupon, receipt for fare or pass, issued by any railroad company or any lessee or manager thereof, canceled in whole or in part, with intent to dispose of by sale or gift, or to circulate the same, or with intent to defraud the railroad company or lessees thereof; or

b. With like intent to defraud, offers for sale or in payment of fare on the railroad of the company, such ticket, check, order, coupon or pass, knowing the same to have been so restored, in whole or in part;

Is punishable by a fine of not more than $1,000, or by imprisonment in jail for not more than six months, or by both. (Feb. 21, 1933, ch. 109, sec. 94 [339], 47 Stat. 875.)

741. Altering clubhouse, commissary or restaurant checks or coupons.—Every person who, with intent to defraud, alters any clubhouse, commissary or restaurant check, ticket, coupon, or other evidence of a transaction with such clubhouse, commissary or restaurant, is punishable by imprisonment in jail for not more than six months or by a fine of not more than $1,000, or by both. (Feb. 21, 1933, ch. 109, sec. 94a [339a], 47 Stat. 875.)

742. Issuing instruments to circulate as money.—Every person who makes, issues or puts in circulation any bill, check, ticket, certificate, promissory note, or the paper of any bank, to circulate as money, except as authorized by the laws of the United States or the Canal Zone, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 67 [245], 47 Stat. 869.)

ARTICLE 8.—FRAUDULENT INSOLVENCIES BY CORPORATIONS, AND OTHER FRAUDS IN THEIR MANAGEMENT

Sec.
751. "Director" defined.
752. Frauds in subscriptions for stock in corporations.
753. Frauds in procuring organization of corporation or increasing its capital.
754. Unauthorized use of name in prospectus or advertisement.
755. Misconduct of directors of stock corporations.
756. Receiving deposits in insolvent banks.
757. Frauds in books, papers or securities of corporations.
758. False report or statement by director or officer.
759. Refusal to permit inspection of books by stockholders.
760. Officer contracting debt exceeding corporation's available means.
761. Presumption of knowledge by director as to illegality of act.
762. Presumption of concurrence in illegal act by director who is present.
763. Presumption of assent by director absent from meeting.
764. No defense that corporation was foreign corporation.

751. "Director" defined.—The term "director", as used in this article, embraces any of the persons having by law the direction or management of the affairs of a corporation, by whatever name such persons are described in its charter or bylaws.

752. Frauds in subscriptions for stock in corporations.—Every person who signs the name of a fictitious person to any subscription for or agreement to take stock in any corporation existing or proposed, and every person who signs to any subscription or agreement the name of any person, knowing that such person has not means or does not intend in good faith to comply with all the terms thereof, or under any understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced, is guilty of a misdemeanor.

753. Frauds in procuring organization of corporation or increasing its capital.—Every officer, agent or clerk of any corporation, or of any persons proposing to organize a corporation, or to increase the capital stock of any corporation, who knowingly exhibits any false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of the corporation, to investigate its affairs or to allow an increase of its capital, with intent to deceive the officer or board in respect thereto, is punishable by imprisonment in the penitentiary for not more than ten years.

754. Unauthorized use of name in prospectus or advertisement.—Every person who, without being authorized so to do, subscribes the name of another to or inserts the name of another in any prospectus, circular or other advertisement or announcement of any corporation or joint stock association existing or intended to be formed, with intent to permit the same to be published and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter or such corporation or association, is guilty of a misdemeanor.

755. Misconduct of directors of stock corporations.—Every director of any stock corporation who concurs, with intent to defraud the stockholders or creditors of the corporation, in any vote or act of the directors of the corporation, or any of them, by which it is intended either:

a. To make any dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law;

b. To divide, withdraw or in any manner, except as provided by law, pay to the stockholders or any of them any part of the capital stock of the corporation;

c. To discount or receive any note or other evidence of debt in payment of any installment actually called in and required to be paid, or with intent to provide the means of making such payment;

d. To receive or discount any note or other evidence of debt with the intent to enable any stockholder to withdraw any part of the money paid in by him, or his stock; or

e. To receive from any other stock corporation in exchange for the shares, notes, bonds or other evidences of debt of their own corporation shares of the capital stock of such other corporation, or notes, bonds or other evidences of debt issued by such other corporation;

Is guilty of a felony.

756. Receiving deposits in insolvent banks.—Every officer, agent, teller or clerk of any bank, and every individual banker, or agent, teller or clerk of any individual banker, who receives any deposits, knowing that the bank, association or banker is insolvent, is guilty of a felony.

757. Frauds in books, papers or securities of corporations.—Every director, officer or agent of any corporation or joint stock association who knowingly receives or possesses himself of any property of the corporation or association otherwise than in payment of a just demand, and who, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of the corporation or association, and every director, officer, agent or member of any corporation or joint stock association, who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to the corporation or association, or makes, or concurs in making, any false entries, or omits, or concurs in omitting, to make any material entry in any book of accounts or other record or document kept by the corporation or association, is punishable by imprisonment in the penitentiary for not more than ten years or by a fine of not more than $500, or by both. (Feb. 21, 1933, ch. 109, sec. 102c [401], 47 Stat. 877.)

758. False report or statement by director or officer.—Every director, officer or agent of any corporation or joint stock association who knowingly concurs in making, publishing or posting any written report, exhibit or statement of its affairs or pecuniary condition, or book or notice containing any material statement which is false, or refuses to make any entry in any book or post any notice required by law, other than such as are mentioned in this article, is guilty of a felony.

759. Refusal to permit inspection of books by stockholders.—Every officer or agent of any corporation, having or keeping an office within the Canal Zone, who has in his custody or control any book, paper or document of the corporation, and who refuses to give to a stockholder or member of the corporation, lawfully demanding, during office hours, to inspect or take a copy of the same, or of any part thereof, a reasonable opportunity so to do, is guilty of a felony.

760. Officer contracting debt exceeding corporation's available means.—Every officer, agent or stockholder of any railroad company, or other incorporated company, who knowingly assents to, or has any agency in, contracting any debt by or on behalf of such company, unauthorized by law, the amount of which debt, with other debts of the company, exceeds its available means for the payment of its debts at the time such debt is contracted, including its *bona fide* and available stock subscriptions, and exclusive of its real estate, is guilty of a misdemeanor; but the provisions of this section shall not affect the validity of a debt created in violation of its provisions as against the company.

761. Presumption of knowledge by director as to illegality of act.—Every director of a corporation or joint stock association is deemed to possess such a knowledge of the affairs of his corporation as to enable him to determine whether any act, proceeding or omission of the directors is a violation of this article.

762. Presumption of concurrence in illegal act by director who is present.—Every director of a corporation or joint stock association who is present at a meeting of the directors at which any act, proceeding or omission of such directors, in violation of this article occurs, is deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors.

763. Presumption of assent by director absent from meeting.—Every director of a corporation or joint stock association, although not present at a meeting of the directors at which any act, proceeding or omission of such directors, in violation of this article occurs, is deemed to have concurred therein, if the facts constituting such violation appear on the records or minutes of the proceedings of the board of directors, and he remains a director of the same company for six months thereafter, and does not within that time cause or in writing require his dissent from such illegal action to be entered in the minutes of the meetings of the directors.

764. No defense that corporation was foreign corporation.—It is no defense to a prosecution for a violation of the provisions of this article that the corporation was one created by the laws of any State, government or country, if it was one carrying on business or keeping an office therefor within the Canal Zone.

CROSS-REFERENCE

Regulation of foreign corporations doing business in the Canal Zone, see title 3, sections 221 to 230.

ARTICLE 9.—LARCENY AND RELATED OFFENSES

Sec.
771. Larceny defined.
772. Grand and petit larceny.
773. Grand larceny defined and punished.
774. Petit larceny defined and punished.
775. Value of written instruments stolen.
776. Value of passage tickets.
777. Written instruments completed but not delivered.
778. Severing and removing parts of realty.
779. Removal of improvements from mortgaged real property.
780. Larceny of lost property.
781. Neglect to notify owner of goods saved from fire.

Sec.
782. Stealing gas or electricity.
783. Stealing water.
784. Taking vehicle for temporary use or operation.
785. Unauthorized use of automobile by custodian.
786. Buying or receiving stolen goods; presumptive evidence.
787. Unlawful purchase of military or naval property.
788. Bringing into Canal Zone, property stolen or embezzled elsewhere.
789. Changing or defacing marks or brands on domestic animals.

771. Larceny defined.—Larceny is the felonious stealing, taking, carrying, leading or driving away of the personal property of another.

CROSS-REFERENCES

Assault with intent to commit grand larceny, see section 311 of this title.

Bringing into Canal Zone property stolen or embezzled elsewhere, see sections 56 and 788 of this title.

Disposal of stolen property which is recovered, see title 6, sections 821 to 827.

Embezzlement, see sections 661 to 671 of this title.

Informations for larceny, see title 6, section 204.

Proof of larceny, see title 6, section 381.

Robbery, see sections 291 to 294 of this title.

772. Grand and petit larceny.—Larceny is divided into two degrees, the first of which is termed grand larceny; the second, petit larceny.

773. Grand larceny defined and punished.—Grand larceny is larceny committed in either of the following cases:

a. When the property taken is of the value of $50 or more;

b. When the property is taken from the person of another; or

c. When the property taken is a horse, mare, gelding, cow, steer, bull, calf, mule, jack or jenny.

Grand larceny is punishable by imprisonment in the penitentiary for not more than ten years. (Sept. 21, 1922, ch. 370, sec. 6 [342], 42 Stat. 1007.)

774. Petit larceny defined and punished.—Larceny in other cases is petit larceny, and is punishable by imprisonment in jail for not more than thirty days or by a fine of not more than $100, or by both. (Sept. 21, 1922, ch. 370, sec. 8 [343], 42 Stat. 1007.)

775. Value of written instruments stolen.—If the thing stolen consists of any evidence of debt or other written instrument, the amount of money due thereupon, or secured to be paid thereby, and remaining unsatisfied, or which in any contingency might be collected thereon, or the value of the property the title to which is shown thereby, or the sum which might be recovered in the absence thereof, is the value of the thing stolen.

CROSS-REFERENCE

Estimation of value of property in determining grade of offense generally, see section 10 of this title.

776. **Value of passage tickets.**—If the thing stolen is any ticket or other paper or writing entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railroad or vessel or other public conveyance, the price at which tickets entitling a person to a like passage are usually sold by the proprietors of such conveyance is the value of such ticket, paper or writing.

777. **Written instruments completed but not delivered.**—All the provisions of this article apply where the property taken is an instrument for the payment of money, evidence of debt, public security or passage ticket, completed or ready to be issued or delivered, although the same has never been issued or delivered by the makers thereof to any person as a purchaser or owner, or having other interests therein.

778. **Severing and removing parts of realty.**—The provisions of this article apply also where the thing taken is any fixture or part of the realty and is severed at the time of the taking in the same manner as if the thing had been severed by another person at some previous time.

779. **Removal of improvements from mortgaged real property.**—Every person who, after mortgaging any real property, and during the existence of the mortgage, or after the mortgaged property has been sold under an order and decree of foreclosure, with intent to defraud or injure the mortgagee or his representatives, successors or assigns, or the purchaser of the mortgaged premises at the foreclosure sale or his representatives or assigns, takes, removes or carries away from, destroys or damages the mortgaged premises. or otherwise disposes of or permits the taking, removing or carrying away, or other disposition of, any house, barn or other property affixed thereto as an improvement thereon, without the written consent of the mortgagee or his representatives, successors or assigns, or the purchaser at the foreclosure sale or his representatives or assigns, is guilty of larceny and shall be punished accordingly.

780. **Larceny of lost property.**—One who finds lost property under circumstances which give him knowledge of or means of inquiry as to the true owner, and who appropriates such property to his own use, or to the use of another person not entitled thereto, without first making reasonable and just efforts to find the owner and restore the property to him, is guilty of larceny, and shall be punished accordingly.

781. **Neglect to notify owner of goods saved from fire.**—Every person who saves from fire, or from a building endangered by fire, any property, and for two days thereafter corruptly neglects to notify the owner thereof, is punishable by imprisonment in the penitentiary for not more than ten years. (Feb. 21, 1933, ch. 109, sec. 98a [355], 47 Stat. 876.)

782. **Stealing gas or electricity.**—Every person who, with intent to injure or defraud, makes or causes to be made any pipe, tube, wire or other instrument, and connects the same or causes it to be connected with any main, service pipe or other pipe, wire or connection

used for supplying illuminating gas or electricity in such a manner as to supply illuminating gas or electricity to any burner, orifice, globe or other connection by or at which illuminating gas or electricity is consumed, around or without passing through a meter provided for measuring and registering the quantity consumed, or in any other manner so as to evade the payment therefor, and every person who with like intent obstructs its action, is guilty of a misdemeanor.

783. **Stealing water.**—Every person who, with intent to defraud or injure:

a. Opens or causes to be opened or draws water from any stopcock or faucet by which the flow of water is controlled, after having been notified that the same has been closed or shut for specific cause. by order of competent authority; or

b. Connects or causes to be connected, any pipe, tube or other instrument, with any main, service or other pipe, conduit or flume, for conducting water, for the purpose of taking water from such main, service pipe, conduit or flume, without the knowledge of the owner thereof, and with intent to evade payment therefor;

Is guilty of a misdemeanor.

784. **Taking vehicle for temporary use or operation.**—Any person who shall, without the permission of the owner thereof, take any automobile, bicycle, motorcycle or other vehicle, for the purpose of temporarily using or operating the same, shall be punished by a fine of not more than $200, or by imprisonment in jail for not more than three months, or by both. (Feb. 21, 1933, ch. 109, sec. 97 [354a], 47 Stat. 876.)

785. **Unauthorized use of automobile by custodian.**—Every owner or manager of an automobile garage, or agent or employee of such owner or manager, or any other person, having the care, custody or possession of any automobile, who takes, hires, runs, drives or uses such automobile, or who takes or removes therefrom any part thereof, without the owner's consent, is punishable by a fine of not more than $1,000, or by imprisonment in jail for not more than one year, or by both. (Feb. 21, 1933, ch. 109, sec. 98 [354b], 47 Stat. 876.)

786. **Buying or receiving stolen goods; presumptive evidence.**—Every person who for his own gain or to prevent the owner from again possessing his property, buys or receives any personal property, knowing the same to have been stolen, is punishable by imprisonment in the penitentiary for not more than five years; and it shall be presumptive evidence that such property was stolen if it consists of jewelry, silver or plated ware, or articles of personal ornament, purchased or received from a person under the age of eighteen, unless such property is sold by the minor at a fixed place of business carried on by such minor or his employer.

CROSS-REFERENCE

Bringing into Canal Zone property feloniously received elsewhere, see section 788 of this title.

787. Unlawful purchase of military or naval property.—Whoever shall purchase or receive in pledge from any person any arms, equipment, ammunition, clothing, military stores or other property furnished by the United States, under a clothing allowance or otherwise, to any soldier, sailor, officer, cadet or midshipman in the military or naval service of the United States or of the National Guard or Naval Militia, or to any person accompanying, serving or retained with the land or naval forces and subject to military or naval law, having knowledge or reason to believe that the property has been taken from the possession of the United States or furnished by the United States under such allowance, shall be fined not more than $500, or be imprisoned for not more than two years, or both.

NOTE.—This section was derived from U.S. Code, title 18, section 86.

788. Bringing into Canal Zone, property stolen or embezzled elsewhere.—Every person who, in any country or State of the United States, embezzles or steals the property of another, or receives such property, knowing it to have been embezzled or stolen, and brings the same into the Canal Zone, may be convicted and punished in the same manner as if such embezzlement, larceny or receiving had been committed in the Canal Zone. (Feb. 21, 1933, ch. 109, sec. 96 [352], 47 Stat. 875.)

CROSS-REFERENCE

See also paragraph b of section 56 of this title.

789. Changing or defacing marks or brands on domestic animals.—Every person who marks or brands, alters or defaces the mark or brand of any horse, mare, colt, jack, mule, ox, steer, cow, calf, sheep, goat, hog, shoat or pig belonging to another with intent thereby to steal the same, or to prevent identification thereof by the true owner, is punishable by imprisonment in the penitentiary for not more than five years.

ARTICLE 10.—MALICIOUS MISCHIEF, IN GENERAL

Sec.
801. Malicious injury to property generally.
802. Malicious injury to real property.
803. Burning of building, vessel or standing crop.
804. Leaving gate or guard of enclosure of another open.
805. Throwing down fence.
806. Malicious use of explosives endangering life.
807. Destruction of written instrument belonging to another.
808. Opening or publishing sealed letter.
809. Poisoning animals.
810. Cruelty to animals.
811. Commissioning humane society agent to aid enforcement.

801. Malicious injury to property generally.—Every person who maliciously injures or destroys any real or personal property not his own, in cases otherwise than such as are specified in this title, is guilty of a misdemeanor. The specification of the acts enumerated in the following sections of this article is not intended to restrict or qualify the interpretation of this section.

CROSS-REFERENCE

Malicious injuries to the Canal, fortifications, railroads or highways, see sections 821 to 846 of this title.

802. Malicious injury to real property.—Every person who willfully commits any trespass by either:

a. Cutting down, destroying or injuring any kind of wood or timber standing or growing upon the lands of another, or upon public lands;

b. Carrying away any kind of wood or timber lying on such lands;

c. Maliciously injuring or destroying any standing crops, fruits or vegetables, the property of another, in any case for which a punishment is not otherwise prescribed by this title;

d. Digging, taking or carrying away from any lot situated within the Canal Zone, without the license of the owner or legal occupant thereof, any earth, soil or stone;

e. Digging, taking or carrying away from any land in the Canal Zone, recognized or established as a street, alley, avenue or park, without the license of the proper authorities, any earth, soil or stone; or

f. Putting up, affixing, fastening, printing or painting upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign or device intended to call attention thereto;

Is guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 105 [426, subs. 4, 5 and 6], 47 Stat. 878.)

803. Burning of building, vessel or standing crop.—Every person who willfully or maliciously burns any building or vessel, not the subject of arson, or any growing or standing crop, not the property of such person, is punishable by imprisonment in the penitentiary for not more than ten years.

804. Leaving gate or guard of enclosure of another open.—Every person passing through the gate or guard of an enclosure of another and leaving the same open, is guilty of a misdemeanor and punishable by a fine of not more than $25.

805. Throwing down fence.—Every person willfully or maliciously throwing down a fence to make passage through an enclosure is guilty of a misdemeanor.

806. Malicious use of explosives endangering life.—Every person who maliciously, by the explosion of gunpowder or other explosive substance, destroys, throws down or injures the whole or any part of any building, by means of which the life or safety of any human being is endangered, is guilty of a felony.

807. Destruction of written instrument belonging to another.—Every person who maliciously mutilates, tears, defaces, obliterates or destroys any written instrument, the property of another, the false making of which would be forgery, is punishable by imprisonment in the penitentiary for not more than five years. (Feb. 21, 1933, ch. 109, sec. 110 [438], 47 Stat. 879.)

808. Opening or publishing sealed letter.—Every person who willfully and without being authorized to do so either by the writer of the letter or the person to whom it is addressed:

a. Opens or reads, or causes to be read, any sealed letter not addressed to himself; or

b. Publishes any of the contents of the letter, knowing the same to have been unlawfully opened;

Is guilty of a misdemeanor.

809. **Poisoning animals.**—Every person who willfully administers any poison to an animal, the property of another, or maliciously exposes any poisonous substance with the intent that the same shall be taken or swallowed by any such animal, is punishable by imprisonment in the penitentiary for not more than three years, or by a fine of not more than $500, or by both.

810. **Cruelty to animals.**—Every person who:

a. Shall overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill or deprive of necessary food, drink or shelter, or work when unfit for labor, any animal whether wild or tame and whether belonging to himself or to another; or

b. Being the owner or possessor or having charge or custody of a maimed, diseased, disabled or infirm animal shall abandon it, or leave it to die in a street, road or other place;

Is guilty of a misdemeanor. Any police officer may lawfully destroy or cause to be destroyed any animal found abandoned and not properly cared for, appearing, in the judgment of two reputable persons called by him to view the same in his presence, to be injured or diseased past recovery for any useful purpose.

Cross-References

Promotion of bull fights, dog fights, etc., see section 608 of this title.

Other crimes in relation to animals, see sections 561 to 567 of this title.

811. **Commissioning humane society agent to aid enforcement.**—Any duly appointed agent of a regularly organized humane society in the Canal Zone, may be commissioned by the proper authorities of the Canal Zone as a special police officer for the enforcement of the provisions of the next preceding section and of any other law, regulation or order in force in the Canal Zone for the prevention of cruelty to animals, and when so commissioned shall be vested for that purpose with all the authority of a member of the police force.

ARTICLE 11.—MALICIOUS AND OTHER INJURIES TO PANAMA CANAL AND OTHER PUBLIC OR SEMI-PUBLIC PROPERTY

Sec.
821. Injury to or obstruction of Canal or locks.
822. Injury to bridge, viaduct or culvert.
823. Burning of bridge.
824. Throwing injurious substances on highways.
825. Injuries to highway guideposts.
826. Injuries to railroads and railroad bridges.
827. Taking packing or waste from railroad journal boxes.
828. Boarding train with intent to obtain free ride.
829. Jumping on or off train in motion; riding on roof or platform.
830. Riding on labor train without authority.
831. Injuring telegraph or telephone lines or apparatus.
832. Destroying boundary or subaqueous cable markers.
833. Injury to or removal of boundary or survey monuments.
834. Injuries to monuments, works of art or trees.
Sec.
835. Breaking or obstructing gas or water pipes.
836. Injuring water system or fire protection apparatus, etc.; misusing or wasting water.
837. Taking water from or disturbing irrigation or other canals, etc.
838. Injury to structures erected to create power or conduct or store water.
839. Altering or exhibiting light to endanger vessel.
840. Obstructing navigable streams.
841. Destroying or injuring jails.
842. Defacing or destroying posted copies of laws or notifications.
843. Placing signs on property of United States or Panama Railroad.
844. Trespassing upon Government or Railroad reservations.
845. Posting signs warning against trespassing upon reservation.
846. Destruction or removal of warning signs.

821. **Injury to or obstruction of Canal or locks.**—Any person who by any means or in any way injures or obstructs or attempts to injure or obstruct any part of the Panama Canal or the locks thereof or the approaches thereto, shall be punished by imprisonment in the penitentiary for not more than twenty years, or by a fine of not more than $10,000, or by both. (Aug. 21, 1916, ch. 371, sec. 10, 39 Stat. 529 [U.S. Code, title 48, sec. 1322].)

CROSS-REFERENCE

Violation of this section causing death, see section 255 of this title.

822. **Injury to bridge, viaduct or culvert.**—Every person who maliciously digs up, removes, displaces or otherwise injures or destroys any public bridge, viaduct or culvert, is punishable by imprisonment in the penitentiary for not more than five years.

CROSS-REFERENCE

Receiving compensation for use of bridge without authority, see section 531 of this title.

823. **Burning of bridge.**—Every person who willfully or maliciously burns any bridge exceeding $50 in value, not the property of such person, is punishable by imprisonment in the penitentiary for not more than ten years.

824. **Throwing injurious substances on highways.**—Any person who throws or deposits any glass bottle, glass, nails, tacks, hoops, wire, cans or any other substance likely to injure any person, animal or vehicle upon any public highway in the Canal Zone shall be guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 103 [420a], 47 Stat. 878.)

825. **Injuries to highway guideposts.**—Every person who maliciously removes or injures any mile board, post or stone, or guidepost, or any inscription thereon, erected upon any highway, is guilty of a misdemeanor.

826. Injuries to railroads and railroad bridges.—Every person who maliciously, either:

a. Removes, displaces, injures or destroys any part of any railroad, whether for steam or any other power, or any track of any railroad, or any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof, attached to or connected with any railroad; or

b. Places any obstruction upon the rails or track of any railroad, or of any switch, branch, branchway or turnout connected with any railroad;

Is guilty of a felony, and shall be punished accordingly.

CROSS-REFERENCES

Attempting to wreck train, see section 303 of this title.
Boarding train with intent to rob, see section 294 of this title.

827. Taking packing or waste from railroad journal boxes.—Any person who shall without lawful authority take or remove the packing or waste from out of any journal box or boxes of any locomotive engine, tender, coach, caboose or truck, used or operated on any railroad, shall be punished by a fine of not more than $100, or by imprisonment in jail for not more than thirty days, or by both.

828. Boarding train with intent to obtain free ride.—Any person who shall board any passenger, freight or other railway train in the Canal Zone, whether moving or standing, for any purpose and without in good faith intending to become a passenger thereon, and with no lawful business thereon, and with intent to obtain a free ride on such train, however short the distance, without the consent of the person or persons in charge thereof shall be punished by a fine of not more than $20.

829. Jumping on or off train in motion; riding on roof or platform.—Any person other than a member of a train crew, or a construction or transportation official or employee engaged in the performance of his duties, who shall jump on or off a railroad locomotive, car or train while it is in motion, or ride on the roof or platform of a car of such train, shall be fined not more than $10 for each offense.

830. Riding on labor train without authority.—Any person not in the employ of the Panama Canal or the Panama Railroad Company who shall ride on any labor train without written authority of the Governor or the head of a department or division of the Panama Canal or Panama Railroad Company, shall be fined not more than $25 for each offense.

831. Injuring telegraph or telephone lines or apparatus.—Every person who maliciously takes down, removes, injures or obstructs any line of telegraph or telephone, or any part thereof, or appurtenances or apparatus connected therewith, or severs any wires thereof, is guilty of a misdemeanor.

CROSS-REFERENCE

Offenses against telegraph or telephone service, see sections 851 to 857 of this title.

832. Destroying boundary or subaqueous cable markers.—Every person who either:

a. Maliciously removes any monument erected for the purpose of designating any point in the boundary of any lot or tract of land, or a place where a subaqueous telegraph cable lies;

b. Maliciously defaces or alters the marks upon any such monument; or

c. Maliciously cuts down or removes any tree upon which any such marks have been made for such purpose, with intent to destroy such marks;

Is guilty of a misdemeanor.

833. Injury to or removal of boundary or survey monuments.—Every person who willfully injures, defaces or removes any signal, monument, building or appurtenance thereto, placed, erected or used by persons engaged in the United States Coast and Geodetic Survey, the Military Survey of the United States Army, the Hydrographic Office of the United States Navy, or any other Government surveys, or the Panama Canal, or any public service company within the Canal Zone, knowing the same to be a boundary or survey monument, is guilty of a felony. (Feb. 21, 1933, ch. 109, sec. 109 [436], 47 Stat. 878.)

834. Injuries to monuments, works of art or trees.—Every person, not the owner thereof, who willfully injures, disfigures or destroys any monument, work of art, or useful or ornamental improvement within the limits of the Canal Zone, or any shade tree or ornamental plant growing therein, whether situated upon private grounds or on any street, sidewalk or public park, or place, is guilty of a misdemeanor. (Feb. 21, 1933, ch. 109, sec. 111 [440], 47 Stat. 879.)

835. Breaking or obstructing gas or water pipes.—Every person who willfully breaks, digs up, obstructs or injures any pipe or main for conducting gas or water, or any works erected for supplying buildings with gas or water, or any appurtenances or appendages therewith connected, is guilty of a misdemeanor.

836. Injuring water system or fire protection apparatus, etc., misusing or wasting water.—Any person who shall:

a. Remove, obstruct, injure, molest or otherwise tamper with any fire hydrant, standpipe, fire plug, tank, hand grenade, fire extinguisher, hose, hose reel, cart, engine, valve, box or cover, stopcock, stop box or cover, or any other tool, fixture, apparatus, pump, machinery or building of any kind whatsoever connected with or necessary to the proper and efficient operation of the water systems or for fire protection within the Canal Zone; or

b. Willfully or otherwise misuse or waste, or cause to be misused or wasted, water supplied from the water mains owned and operated by the Government of the Canal Zone;

Shall be punished by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both; but this section shall not apply to firemen in the regular discharge of their duties and duly authorized representatives of the municipal engineering division.

CROSS-REFERENCE

Resisting fireman, see section 572 of this title.

837. **Taking water from or disturbing irrigation or other canals, etc.**—Every person who shall without authority of the owner or managing agent:

a. Take water from any canal, ditch, flume or reservoir used for the purpose of holding or conveying water for manufacturing, agricultural, irrigating or generation of power for domestic uses, with intent to defraud;

b. Raise, lower or otherwise disturb any gate or other apparatus thereof used for the control or measurement of water; or

c. Empty or place, or cause to be emptied or placed, into any such canal, ditch, flume or reservoir, any rubbish, filth or obstruction to the free flow of the water;

Is guilty of a misdemeanor.

838. **Injury to structures erected to create power or conduct or store water.**—Every person who willfully and maliciously:

a. Cuts, breaks, injures or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir or other structure erected to create hydraulic power, or to drain or reclaim any swamp or overflowed tide or marsh land, or to store or conduct water for agricultural or other purposes, or for the supply of the inhabitants of any city or town, or any embankment necessary to the same, or either of them;

b. Makes or causes to be made any aperture in such dam, canal, flume, aqueduct, reservoir, embankment, levee or structure, with intent to injure or destroy the same; or

c. Draws up, cuts or injures any piles fixed in the ground for the purpose of securing any sea bank or sea walls or any dock, quay, jetty, lock or sea wall;

Is punishable by imprisonment in the penitentiary for not more than two years, or by a fine of not more than $1,000, or by both. (Feb. 21, 1933, ch. 109, sec. 106 [431], 47 Stat. 878.)

839. **Altering or exhibiting light to endanger vessel.**—Every person who unlawfully masks, alters or removes any light or signal, or willfully exhibits any light or signal, with intent to bring any vessel into danger, is punishable by imprisonment in the penitentiary for not more than twenty years.

840. **Obstructing navigable streams.**—Every person who unlawfully obstructs the navigation of any navigable stream or water, is guilty of a misdemeanor.

841. **Destroying or injuring jails.**—Every person who willfully and intentionally breaks down, pulls down or otherwise destroys or injures any public jail or other place of confinement, is punishable by a fine of not more than $10,000, and by imprisonment in the penitentiary for not more than five years.

842. **Defacing or destroying posted copies of laws or notifications.**—Every person who intentionally defaces, obliterates, tears down or destroys any copy or transcript or extract from or of any law of the United States or of the Canal Zone, or any proclamation, advertisement or notification set up at any place in the Canal Zone, by authority of any laws of the United States or of the Canal Zone, or by order of any court, before the expiration of the time for which the same was to remain set up, is punishable by a fine of not less than $25, or by imprisonment in jail for not more than thirty days.

843. **Placing signs on property of United States or Panama Railroad.**—Any person who shall construct or place any sign, bill, poster or other advertising device on any land, building or other structure owned or controlled by the United States or the Panama Railroad Company in the Canal Zone, shall be punished by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both; and every day that such sign, bill, poster, or other advertising device shall remain upon such lands or structures shall be deemed a separate offense. This section shall not, however, be construed to prevent persons from advertising, by means of any such advertising devices, the business that they may be conducting according to law in any building or other structure upon which such advertising device is constructed or placed.

844. **Trespassing upon Government or Railroad reservations.**—Every person who shall go into or upon any reservation or other place belonging to or under the control of the United States of America, the Canal Zone Government, or the Panama Railroad Company, after such reservation or place has been posted as prescribed in the section next following, and without the permission of the person in charge of such reservation or place, shall be guilty of trespassing and shall be punished by a fine of not more than $25, or by imprisonment in jail for not more than thirty days, or by both.

845. **Posting signs warning against trespassing upon reservation.**—The posting required by sections 844 to 846 of this title, shall consist of printed or painted signs, conspicuously placed, by the authority of the Governor of the Panama Canal, at or near the reservation or place from which the public is to be excluded, and shall in plain and simple words warn all persons against trespassing upon the reservation or place.

846. **Destruction or removal of warning signs.**—Every person who willfully injures, destroys or removes any sign placed or erected under the provisions of sections 844 to 846 of this title, shall be punished by a fine of not more than $100, or by imprisonment in jail for not more than three months, or by both.

ARTICLE 12.—OFFENSES AGAINST THE TELEGRAPH, TELEPHONE, OR CABLE SERVICE

Sec.
851. Refusal or neglect to send or deliver message.
852. Agent using information derived from telegraph or cable message.
853. Fraudulently obtaining or using contents of message.
854. Bribing agent to disclose message.
855. Disclosing contents of telegraphic or cable message.
856. Altering telegraphic or cable message.
857. Opening or fraudulently obtaining telegraphic or cable message of another.

851. Refusal or neglect to send or deliver message.—Every agent, operator or employee of any telegraph, cable or telephone office, who:

a. Willfully refuses or neglects to send any message received at such office for transmission;

b. Willfully postpones the same out of its order; or

c. Willfully refuses or neglects to delivery any message received by telegraph, cable or telephone;

Is guilty of a misdemeanor; but nothing herein contained shall be construed to require any message to be received, transmitted or delivered unless the charges thereon have been paid or tendered, or to require the sending, receiving or delivery of any message counseling, aiding, abetting or encouraging treason or other resistance to lawful authority, or any message calculated to further any fraudulent plan or purpose, or to instigate or encourage the perpetration of any unlawful act, or to facilitate the escape of any criminal or person accused of crime, or any message containing abusive, blasphemous or indecent language.

CROSS-REFERENCES

Forging telegraph or telephone message, see section 725 of this title.

Malicious injury to telegraph lines, see section 831 of this title.

Removing or altering marker of subaqueous telegraph cable, see section 832 of this title.

852. Agent using information derived from telegraph or cable message.—Every agent, operator or employee of any telegraph or cable office, who:

a. In any way uses or appropriates any information derived by him from any private message passing through his hands addressed to any other person, or in any other manner acquired by him by reason of his trust as such agent, operator or employee; or

b. Trades or speculates upon any such information so obtained, or in any manner turns, or attempts to turn the same to his own account, profit or advantage;

Is punishable by imprisonment in the penitentiary for not more than five years, or by a fine of not more than $5,000, or by both.

853. Fraudulently obtaining or using contents of message.—Every person who, by means of any machine, instrument or contrivance, or in any other manner, willfully and fraudulently reads, or attempts to read, any message, or to learn the contents thereof, whilst the same is being sent over any telegraph line, or willfully and fraudulently, or clandestinely learns, or attempts to learn, the contents or meaning of any message while the same is in any telegraph or cable office, or is being received thereat or sent therefrom, or who uses or attempts to use, or communicates to others, any information so obtained, is punishable by imprisonment in the penitentiary for not more than five years, or by a fine of not more than $5,000, or by both. (Feb. 21, 1933, ch. 109, sec. 112 [444], 47 Stat. 879.)

854. Bribing agent to disclose message.—Every person who, by the payment or promise of any bribe, inducement or reward, procures, or attempts to procure, any telegraph or cable agent, operator or employee to disclose any private message, or the contents, purport, substance or meaning thereof, or offers to any such agent, operator or employee any bribe, compensation or reward for the disclosure of any private information received by him by reason of his trust as such agent, operator or employee, or uses, or attempts to use, any such information so obtained, is punishable by imprisonment in the penitentiary for not more than five years, or by a fine of not more than $5,000, or by both. (Feb. 21, 1933, ch. 109, sec. 113 [445], 47 Stat. 879.)

855. Disclosing contents of telegraphic or cable message.—Every person who willfully discloses the contents of any telegraphic or cable message, or any part thereof, addressed to another person, without the permission of such person, unless directed so to do by the lawful order of a court, is guilty of a misdemeanor.

856. Altering telegraphic or cable message.—Every person who willfully alters the purport, effect or meaning of a telegraphic or cable message to the injury of another, is guilty of a misdemeanor.

CROSS-REFERENCE

Forging messages, see section 725 of this title.

857. Opening or fraudulently obtaining telegraphic or cable message of another.—Every person not connected with any telegraph or cable office who:

a. Without the authority or consent of the person to whom the same may be directed, willfully opens any sealed envelope inclosing a telegraphic or cable message and addressed to any other person, with the purpose of learning the contents of the message; or

b. Fraudulently represents any other person and thereby procures to be delivered to himself any telegraphic or cable message addressed to such other person, with the intent to use, destroy or detain the same from the person entitled to receive the message;

Is guilty of a misdemeanor.

CHAPTER 15.—CARRYING AND KEEPING OF ARMS; HUNTING

Sec.
871. Carrying of arms on or about person, unlawful.
872. Persons to whom preceding section is inapplicable.
873. Permits to have and carry arms, in general.
874. Granting and revocation of hunting permits.
875. Hunting pursuant to permit; regulation.
876. Offenses and punishment thereof.
877. Fire-hunting at night and hunting by means of spring or trap; punishment.

Section 871. Carrying of arms on or about person, unlawful.—No person shall carry on or about his person any firearm or any dirk, dagger or other knife, or other weapon, manufactured or sold for the purpose of offense or defense, or any slung shot, air gun, sword cane, blackjack, or any knuckles made of metal or other hard substance. (July 5, 1932, ch. 418, sec. 1, 47 Stat. 573.)

CROSS-REFERENCES

Drawing deadly weapon in a threatening manner, see section 604 of this title.

Taking dangerous weapons from persons arrested, see title 6, section 96.

872. **Persons to whom preceding section is inapplicable.**—The next preceding section shall not apply:

a. To a person engaged in the military or naval service of the United States, or as a peace officer or officer authorized to execute judicial process of the United States or the Canal Zone, or in carrying mail, or in the collection or custody of funds of the United States or the Canal Zone, while such officers or persons are engaged in the performance of their respective duties;

b. To a member of a gun or pistol club organized for the promotion of target practice, a certified copy of the constitution and bylaws of which has been approved by the Governor of the Panama Canal and filed with the chief of the police and fire division, when such member is going to or from a target range or is engaged in practice thereat. A certificate of membership in the gun or pistol club shall be issued by the organization and approved by the chief of the police and fire division, which shall entitle the holder to carry firearms as provided in this section; or

c. To any person authorized to have or carry arms by any permit granted under the terms of this chapter. (July 5, 1932, ch. 418, sec. 2, 47 Stat. 573.)

873. **Permits to have and carry arms, in general.**—The Governor of the Panama Canal may authorize the granting of permits to have and carry arms, as follows:

a. To hunt upon the public lands of the Canal Zone or upon lands occupied by private persons, when authorized by the latter;

b. To have arms in residences, offices, business places or plantations;

c. To watchmen or overseers of plantations, factories, warehouses, docks or piers; and

d. To carry arms in private aircraft for hunting or protection of crew or cargo.

Applications for such permits shall be made to the Governor, and shall contain the full name, residence and occupation of the applicant. If the applicant is a minor a permit shall not be granted without the consent of his parent or guardian and no permit shall be granted to a minor under fifteen years of age. (July 5, 1932, ch. 418, sec. 3, 47 Stat. 573.)

874. **Granting and revocation of hunting permits.**—When an application for a permit to hunt is granted by the Governor of the Panama Canal, he shall indorse his approval thereon, file the application, and cause a permit to be issued to the applicant upon payment by him of a fee of $1. The permit shall run for the fiscal year in

which it is issued except that it may be revoked by the Governor at any time for cause. (July 5, 1932, ch. 418, sec. 4, 47 Stat. 573.)

875. **Hunting pursuant to permit; regulation.**—Hunting permits issued under this chapter shall allow the holder thereof to have, carry and use firearms in the area or areas prescribed by the Governor, and on the conditions imposed by him under such general or special rules and regulations as he may issue from time to time. The Governor may designate the area or areas of the Canal Zone in which hunting is permitted, and the class of arms that may be used in hunting therein; and no hunting shall be allowed outside of such areas. The Governor may, in such general or special rules and regulations, impose such other conditions in respect to hunting as he may deem necessary in the interests of public order and to prevent injury to persons or property. (July 5, 1932, ch. 418, sec. 4, 47 Stat. 573.)

CROSS-REFERENCE

Protection of birds and their nests, see title 2, sections 291 to 293.

876. **Offenses and punishment thereof.**—Any person who:

a. Carries on or about his person any of the arms mentioned in section 871 of this title without authority under this chapter;

b. Engages in hunting without first obtaining the permit provided for in this chapter; or

c. After obtaining a hunting permit, engages in hunting in violation of the provisions of this chapter or any rule or regulation established by the Governor hereunder;

Shall be guilty of a misdemeanor. Penalties for violations of this chapter shall be in addition to any punishment which may be imposed upon the offending person for any other offense that he may have committed in connection with the carrying or using of arms in violation of this chapter. (July 5, 1932, ch. 418. secs. 6 and 7, 47 Stat. 574.)

877. **Fire-hunting at night and hunting by means of spring or trap; punishment.**—Every person who shall:

a. Hunt at night between the hours of sunset and sunrise with the aid or use of a lantern, torch, bonfire or other artificial light; or

b. Hunt by the use of a gun or other firearm intended to be discharged by any animal or bird by means of a spring, trap or other similar mechanical device;

Shall be guilty of a misdemeanor. The penalties imposed by this section shall be in addition to the punishments authorized by the law against carrying arms without a permit. (July 5, 1932, ch. 417, sec. 1, 47 Stat. 572.)

TITLE 6.—THE CODE OF CRIMINAL PROCEDURE

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Crimes on high seas, practice and procedure, see title 7, section 26.

CHAPTER 1.—GENERAL PROVISIONS

Sec.

1. Name of title.
2. Time of taking effect.
3. Liability to punishment for offenses committed in Canal Zone.
4. Criminal action defined.
5. Parties to criminal action.
6. Style of all processes.
7. Designation of party prosecuted.
8. Prohibition of second prosecution for same offense.
9. Prohibition of second prosecution for act punishable in different ways.
10. No person compelled to be witness against self.
11. Prohibition of unnecessary restraint before conviction.
12. Right of attorney to visit prisoner.
13. Venue of offenses.
14. Rights of defendant in criminal action.
15. Modes of conviction of public offense.
16. "District Attorney" as including assistant.
17. Prosecution of actions for fines, debts and forfeitures accruing to Government.

Section 1. Name of title.—This title shall be known as the Code of Criminal Procedure of the Canal Zone.

2. Time of taking effect.—This title shall apply to criminal actions and proceedings from the time it takes effect except that all such actions and proceedings theretofore commenced shall be conducted in the same manner as if this title had not been enacted. (Feb. 21, 1933, ch. 110, sec. 120, 47 Stat. 901.)

3. Liability to punishment for offenses committed in Canal Zone.—Every person is liable to punishment under the laws of the Canal Zone, or under the laws of the United States applicable to the Canal Zone, for an offense committed by him therein. (Feb. 21, 1933, ch. 110, sec. 4 [9], 47 Stat. 880.)

Cross-Reference

Liability to punishment for certain offenses committed outside of Canal Zone, see title 5, section 56.

4. Criminal action defined.—The proceedings by which a party charged with a public offense is accused and brought to trial and punishment is known as a criminal action.

5. Parties to criminal action.—A criminal action is prosecuted in the name of the Government of the Canal Zone as a party against the person charged with the offense.

CROSS-REFERENCE

Principals and accessories to felony, see sections 211 and 212 of this title.

6. Style of all processes.—The style of all processes shall be in the name of the Government of the Canal Zone.

7. Designation of party prosecuted.—The party prosecuted in a criminal action is designated in this title as the defendant.

8. Prohibition of second prosecution for same offense.—No person can be subjected to a second prosecution for a public offense for which he has once been prosecuted and convicted or acquitted.

CROSS-REFERENCES

Dismissal of action as barring other prosecution, see section 795 of this title.

Former jeopardy, see title 1, section 1 (e).

Pleas of former conviction or acquittal, or once in jeopardy, see sections 271, 272 and 301 of this title.

9. Prohibition of second prosecution for act punishable in different ways.—Where an act or omission is made punishable in different ways by different provisions of Title 5, The Criminal Code, an acquittal or conviction and sentence under either one bars a prosecution for the same act or omission under any other provision.

10. No person compelled to be witness against self.—No person shall be compelled in a criminal action to be a witness against himself.

CROSS-REFERENCES

See also title 1, section 1 (e).

Defendant as a witness, see section 673 of this title.

11. Prohibition of unnecessary restraint before conviction.—No person charged with a public offense shall be subjected before conviction to any more restraint than is necessary for his detention to answer the charge.

CROSS-REFERENCE

See also section 82 of this title.

12. Right of attorney to visit prisoner.—Any attorney at law entitled to practice in the courts of the Canal Zone may, at the request of a prisoner, after his arrest, visit the person so arrested. (Feb. 21, 1933, c. 110, sec. 21 [40], 47 Stat. 883.)

13. Venue of offenses.—The jurisdiction of an offense triable either in the district or magistrates' courts shall be in the division or subdivision where the offense was committed. (Feb. 21, 1933, ch. 110, sec. 3 [8], 47 Stat. 880.)

CROSS-REFERENCES

For provision establishing the divisions, see title 7, section 22.

Removal of the action before trial, see sections 291 et seq., of this title.

14. Rights of defendant in criminal action.—In a criminal action the defendant is entitled:

a. To a speedy and public trial;

b. To be allowed counsel as in civil actions, or to appear and defend in person and with counsel; and

c. To produce witnesses on his behalf and to be confronted with the witnesses against him, in the presence of the court, except:

1. That the deposition of a witness may be read, upon its being satisfactorily shown to the court that he is dead or insane or cannot with due diligence be found within the Canal Zone, in cases wherein the charge has been preliminarily examined before a committing magistrate and the testimony taken down in question and answer form in the presence of the defendant who has either in person or by counsel cross-examined or had an opportunity to cross-examine the witness, or where the testimony of a witness who is unable to give security for his appearance has been taken conditionally on the part of the Government in the like manner in the presence of the defendant who has either in person or by counsel cross-examined or had an opportunity to cross-examine the witness; and

2. That the testimony on behalf of the Government or the defendant of a witness who is deceased, insane, out of the jurisdiction, or who cannot with due diligence be found within the Canal Zone, given on a former trial of the action in the presence of the defendant who has either in person or by counsel cross-examined or had an opportunity to cross-examine the witness, may be admitted. (Feb. 21, 1933, ch. 110, sec. 5 [11], 47 Stat. 880.)

CROSS-REFERENCES

For similar and additional guaranties see title 1, section 1.
Assignment of counsel for defendant, see section 228 of this title.
Public defender, see title 7, section 43.

15. Modes of conviction of public offense.—No person can be convicted of a public offense except:

a. By the verdict of a jury, accepted and recorded by the court;

b. Upon a plea of guilty;

c. Upon a judgment of the district court, a jury having been waived; or

d. Upon a judgment of a magistrate's court. (Feb. 21, 1933, ch. 110, sec. 1 [2], 47 Stat. 880.)

CROSS-REFERENCE

Right to trial by jury, see section 302 of this title; and title 7, section 33.

16. "District attorney" as including assistant.—The words "district attorney", as used in this title, shall, during the absence or disability of the district attorney or during a vacancy in that office, include an assistant district attorney. (Feb. 21, 1933, ch. 110, sec. 2a [3a], 47 Stat. 880.)

17. Prosecution of actions for fines, debts and forfeitures accruing to Government.—The district attorney shall prosecute all recognizances forfeited and all cases for the recovery of fines, penalties, debts and forfeitures accruing to the Government of the Canal Zone.

CROSS-REFERENCE

Enforcement of forfeiture of undertaking of bail, see section 623 of this title.

CHAPTER 2.—RESISTANCE TO OFFENSES; SELF-DEFENSE

Sec.
31. Resistance to offense by party about to be injured.
32. Aiding in defense of person about to be injured.
33. Extent of right of self-defense.

Section 31. Resistance to offense by party about to be injured.—Resistance sufficient to prevent an offense may be made by the party about to be injured:

a. To prevent an illegal attempt by force to take or injure property in his lawful possession; or

b. To prevent an offense against his person or his family or some member thereof.

32. Aiding in defense of person about to be injured.—Any other person, in aid or defense of a person about to be injured, may make resistance sufficient to prevent the offense.

33. Extent of right of self-defense.—The right of self-defense in no case extends to the infliction of more harm than is necessary for the purpose of defense. (Feb. 21, 1933, ch. 109, sec. 15 [49], 47 Stat. 860.)

CROSS-REFERENCE

Justifiable or excusable homicide, see title 5, sections 259 to 262.

CHAPTER 3.—SECURITY TO KEEP THE PEACE

Sec.
41. Complaint before magistrate of threatened offense.
42. Examination of informer and witnesses.
43. Warrant for arrest of person informed of.
44. Taking of testimony in relation to charge.
45. Discharge of person complained of in absence of cause.
46. Requiring security where reason for fear exists.
47. Effect of giving or failing to give security.
48. Discharge of person committed for not giving security.
49. Approval and filing of undertaking.
50. Requiring security in event of assault in presence of magistrate.
51. Breach of undertaking.
52. Action upon the undertaking.
53. Security to keep peace not otherwise required.

Section 41. Complaint before magistrate of threatened offense.—A complaint may be laid before a magistrate that a person has threatened to commit an offense against the person or property of another. (Feb. 21, 1933, ch. 109, sec. 16 [58], 47 Stat. 861.)

CROSS-REFERENCE

Crimes against the public peace, see title 5, sections 591 et seq.

42. Examination of informer and witnesses.—When the complaint is laid before the magistrate he must:

a. Examine under oath the informer and any witness he may produce;

b. Take their depositions in writing and cause them to be subscribed by the parties making them; and

c. Examine all other proofs that may be presented. (Feb. 21, 1933, ch. 109, sec. 16 [59], 47 Stat. 861.)

43. Warrant for arrest of person informed of.—If it appears that there is just reason to fear the commission of the offense threatened by the person so informed against, the magistrate must issue a warrant directed to any constable or policeman, reciting the substance of the complaint and commanding the officer forthwith to arrest the person informed of and bring him before the magistrate. (Feb. 21, 1933, ch. 109, sec. 16 [60], 47 Stat. 861.)

44. Taking of testimony in relation to charge.—When the person informed against is brought before the magistrate and the charge is controverted, the magistrate must take testimony in relation thereto. The evidence must be reduced to writing and subscribed by the witnesses.

45. Discharge of person complained of in absence of cause.—If it appears that there is no just reason to fear the commission of the offense alleged to have been threatened, the person complained of must be discharged and the complaining witness shall pay the costs.

46. Requiring security where reason for fear exists.—If, however, there is just reason to fear the commission of the offense, the person complained of may be required to enter into an undertaking in such sum, not exceeding $1,000, as the magistrate may direct, with one or more sufficient sureties, to keep the peace toward the Government of the Canal Zone and particularly toward the informer. The undertaking shall be valid and binding for six months and may upon the renewal of the complaint be extended for a longer period or a new undertaking may be required.

47. Effect of giving or failing to give security.—If the undertaking required by the next preceding section is given, the party informed against must be discharged; if he does not give it, the magistrate shall commit him to jail, specifying in the warrant the requirement to give security, the amount thereof, and the omission to give the same.

48. Discharge of person committed for not giving security.—If the person complained of is committed for not giving the undertaking required, he may be discharged upon giving the same.

49. Approval and filing of undertaking.—The undertaking must be approved by, and filed with, the magistrate.

50. Requiring security in event of assault in presence of magistrate.—A person who in the presence of a magistrate assaults or threatens to assault another, or to commit an offense against his person or property, may be ordered by the magistrate to give security as provided in this chapter, and if he refuses to do so, may be committed as provided in section 47 of this title.

51. Breach of undertaking.—Upon the conviction of the person informed against of a breach of the peace the undertaking is broken.

52. Action upon the undertaking.—Upon the district attorney's producing evidence of such conviction to the district court, the court shall order the undertaking to be prosecuted and the district attorney must thereupon commence an action upon it in the name of the Government of the Canal Zone.

53. Security to keep peace not otherwise required.—Security to keep the peace or to be of good behavior cannot be required except as prescribed in this chapter.

CHAPTER 4.—TIME FOR COMMENCING CRIMINAL ACTIONS

Sec.
61. No limitation in prosecutions for certain felonies.
62. Limitation for other felonies.
63. Limitation for misdemeanors.
64. Exception when defendant is out of Canal Zone.

Section 61. No limitation in prosecutions for certain felonies.—There is no limitation of time within which a prosecution for murder, the embezzlement of public moneys or the falsification of public records must be commenced.

62. Limitation for other felonies.—The prosecution for any felony other than murder, the embezzlement of public money or the falsification of public records, must be commenced within three years after its commission.

CROSS-REFERENCE

Felony defined, see title 5, section 24.

63. Limitation for misdemeanors.—The prosecution for any misdemeanor must be commenced within one year after its commission.

CROSS-REFERENCE

Misdemeanor defined, see title 5, section 24.

64. Exception when defendant is out of Canal Zone.—If, when the offense is committed, the defendant is out of the Canal Zone the information may be filed within the term herein limited, after his coming within the Canal Zone, and no time during which the defendant is not an inhabitant of, or usually resident within, the Canal Zone, shall be a part of the limitation.

CHAPTER 5.—WARRANT OF ARREST

Sec.
71. Magistrates and district attorney may issue warrants.
72. Complaint as prerequisite to issuance of warrant by magistrate.
73. Affidavit must contain nature and particulars of offense.
74. Issuance of warrant of arrest.
75. Nature and form of warrant of arrest.
76. Requisites of warrant.

Section 71. Magistrates and district attorney may issue warrants.—The magistrates and the district attorney shall have power to issue warrants for the arrest of persons charged with public offenses. (Feb. 21, 1933, ch. 110, sec. 6 [12], 47 Stat. 881.)

CROSS-REFERENCE

Warrant of arrest for threatened breach of peace, see section 43 of this title.

72. Complaint as prerequisite to issuance of warrant by magistrate.—Before a magistrate shall issue a warrant in any case, a complaint must be made by affidavit of the complaining witness, clearly charging therein the offense committed, and such affidavit must be signed by the complaining witness. (Feb. 21, 1933, ch. 110, sec. 7a [18], 47 Stat. 881.)

73. Affidavit must contain nature and particulars of offense.—Every affidavit shall contain as particularly as can be done the nature of the offense charged and the particulars as to the time, place, person and property, so as to enable the defendant to understand the nature and character of the offense. (Feb. 21, 1933, ch. 110, sec. 8 [19], 47 Stat. 881.)

74. Issuance of warrant of arrest.—When a magistrate before whom a complaint has been made is satisfied that the complaint charges an offense, he shall forthwith issue a warrant of arrest for the offending party, directed to any peace officer, commanding the officer to arrest the offender forthwith and bring him before the magistrate. (Feb. 21, 1933, ch. 110, sec. 9 [20], 47 Stat. 881.)

CROSS-REFERENCES

Who are peace officers, see section 84 of this title.
Maliciously procuring warrant of arrest, see title 5, section 171.

75. Nature and form of warrant of arrest.—A warrant of arrest is an order in writing, in the name of the Government of the Canal Zone, signed by a magistrate or other authority commanding the arrest of the defendant, and shall be substantially as follows:

> The Government of the Canal Zone to any peace officer of the Canal Zone.
>
> Complaint upon oath having been made by ______ on this ______ day of ______ before me ______, Magistrate, that the offense of (designating it generally) has been committed, and charging ______ therewith, you are hereby commanded to arrest forthwith the above-named ______ and bring him before me at (naming the place), and thereof do not fail.

76. Requisites of warrant.—The warrant must specify the name of the defendant, or, if it is unknown to the magistrate, the defendant may be designated therein by any name. It must also state the time of issuing it, and the place where it is issued, and be signed by the magistrate, with his name and office. The warrant must be directed to and executed by a peace officer. (Feb. 21, 1933, ch. 110, sec. 11 [21a], 47 Stat. 881.)

CROSS-REFERENCE

Endorsement permitting arrest for misdemeanor at night, see section 90 of this title.

CHAPTER 6.—ARREST

Sec.
81. Arrest defined.
82. Arrest made by actual restraint or submission; unnecessary restraint.
83. Arrests by peace officers with or without warrant.
84. Who are peace officers.
85. Arrests by private persons.
86. Oral order for arrest for offenses in presence of judge or district attorney.
87. Authority of peace officer to summon assistance; disobedience to summons.
88. Authority of person making arrest to summon assistance.
89. Authority to execute warrant in either division or subdivision.
90. Time when arrests may be made.

Sec.
91. Manner of making arrest.
92. Duty to show warrant.
93. Use of all reasonable means authorized.
94. Breaking door or window open to effect arrest.
95. Breaking door or window open to liberate self.
96. Taking weapons from person arrested.
97. Duty of private person who has made an arrest.
98. Duty of officer arresting with warrant.
99. Taking person arrested without warrant before magistrate.
100. Pursuit and retaking of person arrested who escapes or is rescued.
101. Breaking doors or windows to retake person escaping or rescued.

Section 81. Arrest defined.—An arrest is taking a person into custody in a case and in the manner authorized by law.

Cross-References

Bail, see sections 541 to 637 of this title.
Offenses in relation to arrest, see title 5, sections 171 et seq.

82. Arrest made by actual restraint or submission; unnecessary restraint.—An arrest is made by an actual restraint of the person of the defendant, or by his submission to the custody of an officer. The defendant must not be subjected to any more restraint than is necessary for his arrest and detention.

Cross-Reference

Prohibition of unnecessary restraint, see also section 11 of this title.

83. Arrests by peace officers with or without warrant.—A peace officer may make an arrest in obedience to a warrant delivered to him, or may without a warrant arrest a person:

a. For a public offense committed or attempted in the presence of the officer;

b. When the person has committed a felony although not in the presence of the officer;

c. When a felony has in fact been committed and the officer has reasonable cause for believing the person to have committed it;

d. On a charge made, upon a reasonable cause, of a commission of felony by the person; or

e. At night, when there is reasonable cause to believe that the person has committed a felony.

84. Who are peace officers.—The following are peace officers:

a. The marshal and deputy marshals;

b. Constables of the magistrates' courts; and

c. All officers and members of the police force. (Feb. 21, 1933, ch. 110, sec. 12 [21 b], 47 Stat. 882.)

85. Arrests by private persons.—A private person may arrest another:

a. For a public offense committed or attempted in his presence;

b. When the person arrested has committed a felony although not in his presence; or

c. When a felony has been in fact committed and he has reasonable cause for believing the person arrested to have committed it.

86. Oral order for arrest for offenses in presence of judge or district attorney.—The district judge, district attorney, or a magistrate may orally order a peace officer or private person to arrest anyone committing or attempting to commit a public offense in the presence of such judge, district attorney or magistrate.

87. Authority of peace officer to summon assistance.—Any peace officer attempting to serve any criminal process issued by a court or other authority, may summon a sufficient number of men to assist in the arresting or safekeeping of any person who refuses to be taken or who is likely to make his escape.

CROSS-REFERENCE

Punishment for failure to assist in arrest when required, see title 5, section 175.

88. Authority of person making arrest to summon assistance.—Any person making an arrest may orally summon as many persons as he deems necessary to aid him therein.

89. Authority to execute warrant in either division or subdivision.—A warrant of arrest may be executed in either division or subdivision of the Canal Zone. (Feb. 21, 1933, ch. 110, sec. 41 [114a], 47 Stat. 886.)

90. Time when arrests may be made.—If the offense charged is a felony, the arrest may be made on any day and at any time of day or night. If it is a misdemeanor, the arrest cannot be made at night, except upon direction of a magistrate by indorsement on the warrant or except when the offense is committed in the presence of the arresting officer. (Feb. 21, 1933, ch. 110, sec. 40 [113], 47 Stat. 886.)

91. Manner of making arrest.—The person making an arrest must inform the person to be arrested of the intention to arrest him, of the cause of the arrest, and the authority to make it, except when the person to be arrested is actually engaged in the commission of or an attempt to commit an offense, or is pursued immediately after its commission, or after an escape.

92. Duty to show warrant.—If the person making the arrest is acting under the authority of a warrant, he must show the warrant, if required.

93. Use of all reasonable means authorized.—If a person about to be arrested either flees or forcibly resists, after he has been informed of the intention of the arresting officer to place him under arrest, the officer may use all reasonable means to effect the arrest. (Feb. 21, 1933, ch. 110, sec. 42 [116], 47 Stat. 886.)

CROSS-REFERENCES

Justifiable homicide, see title 5, sections 260 and 261.
Resisting arrest, see title 5, section 178.

94. Breaking door or window open to effect arrest.—To make an arrest, a private person, if the offense be a felony, and in all cases a peace officer, may break open the door or window of the house in which the person to be arrested is, or in which they have reasonable grounds for believing him to be, after having demanded admittance and explained the purpose for which admittance is desired.

95. Breaking door or window open to liberate self.—Any person who has lawfully entered a house for the purpose of making an arrest may break open the door or window thereof if detained therein, when necessary for the purpose of liberating himself, and an officer may do the same when necessary for the purpose of liberating a person who, acting in his aid, lawfully entered for the purpose of making an arrest and is detained therein.

96. Taking weapons from person arrested.—Any person making an arrest may take from the person arrested all dangerous weapons which he may have about his person. (Feb. 21, 1933, ch. 110, sec. 43 [119], 47 Stat. 886.)

97. Duty of private person who has made an arrest.—A private person who has arrested another for the commission of an offense must without unnecessary delay take the person arrested before a magistrate or deliver him to a peace officer. (Feb. 21, 1933, ch. 110, sec. 17 [26], 47 Stat. 883.)

98. Duty of officer arresting with warrant.—An officer making an arrest in obedience to a warrant must proceed with the person arrested as commanded by the warrant or as provided by law.

99. Taking person arrested without warrant before magistrate.—When an arrest is made without a warrant by a peace officer or private person, the person arrested must be taken without unnecessary delay before the magistrate of the subdivision in which the arrest is made, and a complaint stating the charge against the person arrested shall be made before such magistrate at once.

100. Pursuit and retaking of person arrested who escapes or is rescued.—If a person arrested escapes or is rescued the person from whose custody he escaped or was rescued may immediately pursue and retake him at any time and in any place.

101. Breaking doors or windows to retake person escaping or rescued.—To retake the person escaping or rescued, the person pursuing may break open an outer or inner door or window of a dwelling house if after notice of his intention he is refused admittance.

CHAPTER 7.—POWERS AND DUTIES OF MAGISTRATES IN GENERAL

Sec.
111. General powers of magistrates.
112. Publicity of proceedings.
113. Keeping of criminal docket.
114. Depositing dockets and papers with successor.
115. Authority of one magistrate to act for other.

Section 111. General powers of magistrates.—A magistrate may:

a. Preserve and enforce order;

b. Enforce order in the proceedings before him and provide for the orderly conduct thereof;

c. Compel obedience to his judgments, orders and processes in an action or proceeding pending therein;

d. Control, in the furtherance of justice, the conduct of all persons in any manner connected with the judicial proceeding before him, and in every other matter appertaining thereto;

e. Compel the attendance of persons to testify in any proceeding pending therein in the cases and manner provided in this title and Title 5, The Criminal Code;

f. Administer oaths in an action or proceeding pending therein and in all other cases where it may be necessary in the exercise of power and duty; and

g. Command and control his processes and orders so as to make them conformable to law and justice. (Feb. 21, 1933, ch. 110, sec. 25 [52], 47 Stat. 884.)

CROSS-REFERENCES

Bail, see sections 541 to 637 of this title.

Compelling attendance of witnesses, see sections 651 to 661 of this title.

Establishment and jurisdiction of magistrates' courts, see title 7, sections 1 and 2.

Examination of witnesses conditionally, see sections 147, and 681 to 691 of this title.

Powers in relation to habeas corpus in absence of district judge, see section 724 of this title.

Rules governing magistrates' courts, see title 7, section 6.

112. Publicity of proceedings.—All proceedings before magistrates shall be public.

113. Keeping of criminal docket.—Every magistrate must keep a book denominated the "criminal docket", which shall be separate and distinct from the civil docket, in which he must enter:

a. The title of every action or proceeding which shall be "The Government of the Canal Zone vs. ———, defendant;"

b. The date of the warrant;

c. The defendant's name and when arrested;

d. The names of the complaining witnesses;

e. The time of issuing summons and the return thereon by the person who served it; and

f. The time of trial and the judgment thereon, or if there be no trial under a plea of guilty, the amount of fine or time of imprisonment, or if it be a case in which the offense is beyond the jurisdiction of the magistrate's court, the commitment or bail, or whatever proceeding is had therein.

There shall also be in each case an itemized statement of the costs and expenses.

114. Depositing dockets and papers with successor.—Every magistrate, upon the expiration of his term of office, must deposit with his successor his official dockets and the papers filed in his office, or any others which may be in his custody to be kept as records.

115. Authority of one magistrate to act for other.—One magistrate may conduct the proceedings of the magistrate of the other subdivision upon inability to act, sickness or any other cause. In such cases the proper entry of the proceedings of such magistrate so acting shall be made in the docket of the magistrate for whom he so acts. (Feb. 21, 1933, ch. 110, sec. 7 [14], 47 Stat. 881.)

CHAPTER 8.—TRIAL OF OFFENSES IN MAGISTRATES' COURTS

Sec.
121. Postponement of trial.
122. Summoning witnesses for defense.
123. Summoning witnesses for prosecution.
124. Reading complaint to defendant; plea.

Sec.
125. Proceedings on plea of guilty.
126. Proceedings on plea of not guilty.
127. Imprisonment for failure to pay fine.

Section 121. Postponement of trial.—Before the commencement of a trial in a magistrate's court, either party, upon good cause shown, may have a postponement of the same for not more than three days.

CROSS-REFERENCES

Bail, see sections 541 to 637 of this title.

Compromising certain offenses by leave of court, see sections 801 to 804 of this title.

Establishment and jurisdiction of magistrates' courts, see title 7, sections 1 and 2.

Rules governing magistrates' courts, see title 7, section 6.

122. Summoning witnesses for defense.—Whenever a person arrested charged with an offense cognizable by a magistrate is placed on trial, he shall give the names of his witnesses, if he has any, and their places of abode; and the magistrate shall forthwith issue subpenas for them to testify in the cause. The subpenas shall state the day, hour and place of trial. (Feb. 21, 1933, ch. 110, sec. 14 [23], 47 Stat. 882.)

CROSS-REFERENCES

Compelling attendance of witnesses, see sections 111 e and 651 to 661 of this title.

Contempt of court, see title 5, section 212.

123. Summoning witnesses for prosecution.—When a day is set for trial by the magistrate, the witnesses for the prosecution shall immediately be summoned. Subpenas being issued and served upon them, they shall appear before the magistrate where the trial is to take place.

124. Reading complaint to defendant, plea.—When a defendant is put upon trial in a magistrate's court, the magistrate shall read the complaint to the defendant, whereupon the defendant may plead to it, which plea shall be "guilty" or "not guilty". If the defendant refuses to answer or plead, the magistrate shall enter a plea of not guilty. (Feb. 21, 1933, ch. 110, sec. 15 [24], 47 Stat. 882.)

125. Proceedings on plea of guilty.—If the defendant pleads guilty the magistrate shall hear testimony to determine the gravity of the offense, and, within twenty-four hours thereafter, shall render judgment as to the punishment to be inflicted. (Feb. 21, 1933, ch. 110, sec. 15 [24], 47 Stat. 882.)

126. Proceedings on plea of not guilty.—After having heard the charge, if the defendant pleads not guilty, the proceedings shall be as follows:

a. The witnesses for the prosecution shall be examined under oath. The oath shall be as follows: "You do solemnly swear before Almighty God that you will tell the truth, the whole truth, and nothing but the truth, in the matter now pending before me."

b. The witnesses for the defendant, including the defendant himself if he wishes to testify, shall be examined under oath; if the defendant does not testify, that fact cannot be used against him.

c. Witnesses for the prosecution may be called to testify in rebuttal only of testimony given by the defendant or his witnesses.

d. The magistrate shall then consider the evidence, and within twenty-four hours thereafter shall render judgment. The trial must be had and the judgment rendered in the presence of the defendant. If the defendant is acquitted, he shall be immediately released. If the defendant is adjudged guilty, the magistrate shall, within the time limit, fine or commit him to jail, or both, as the case may be. (Feb. 21, 1933, ch. 110, sec. 16 [25], 47 Stat. 882.)

Cross-References

Commencement of term of imprisonment, see section 517 of this title.

Competency of witnesses, see sections 671 to 673 of this title.

Consecutive running of sentences, see section 516 of this title.

Determination of punishment where undetermined between limits, see section 483 of this title.

Disposition of fines, see title 7, section 6.

Disposal of stolen or embezzled property which is recovered, see sections 821 to 827 of this title.

Duty of magistrate to determine and impose punishment, see section 482 of this title.

Execution of judgment for imprisonment in jail, see section 515 of this title.

Suspension of sentence, and probation, see sections 500 and 501 of this title.

Temporary releases not part of term of imprisonment, see section 518 of this title.

127. Imprisonment for failure to pay fine.—When a judgment is rendered against a defendant that he pay a fine, should he fail to do so at once, the magistrate shall commit him to jail, to be confined one day for each dollar of fine remaining unpaid; but such imprisonment shall not exceed thirty days in any case. (Feb. 21, 1933, ch. 110, sec. 24 [50], 47 Stat. 883.)

CHAPTER 9.—APPEALS TO DISTRICT COURT

Sec.
131. Right of appeal.
132. Manner of taking appeal.
133. Transmitting warrant and complaint to district court.
134. Trial de novo in district court.
135. Amendment of complaint in district court.

Section 131. Right of appeal.—Appeals from the judgments and rulings of the magistrates' courts to the district court are authorized in all criminal cases. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1343].)

Cross-References

See also title 7, section 7.

Jurisdiction of appeals, see title 7, section 23.

132. Manner of taking appeal.—An appeal from the judgment of a magistrate's court may be taken by the defendant by giving notice in open court of his intention so to do at the time the judgment is rendered. (Feb. 21, 1933, ch. 110, sec. 23 [44], 47 Stat. 883.)

CROSS-REFERENCE

Bail on appeal, see sections 545, 591 and 592 of this title.

133. Transmitting warrant and complaint to district court.—Upon the perfection of such an appeal the magistrate shall forthwith transmit the warrant and the complaint to the clerk of the district court. (Feb. 21, 1933, ch. 110, sec. 23 [44], 47 Stat. 883.)

134. Trial de novo in district court.—All offenses triable in the magistrates' courts, when appealed to the district court, shall be tried de novo on the original complaint and warrant. (Feb. 21, 1933, ch. 110, sec. 38 [97], 47 Stat. 885.)

135. Amendment of complaint in district court.—The complaint may, however, be amended in the district court as to matters of form or substance where the rights of the defendant are not substantially prejudiced thereby; but the amended complaint may not charge a crime different from that charged or sought to be charged in the original complaint. (Feb. 21, 1933, ch. 110, sec. 38 [97], 47 Stat. 885.)

CHAPTER 10.—PRELIMINARY HEARING BY MAGISTRATES OF OFFENSES TRIABLE IN DISTRICT COURT

Sec.

141. Preliminary hearing.
142. Committing defendant to district court.
143. Form of commitment.
144. Binding Government witnesses by written undertaking to appear.
145. Requiring security for appearance of witnesses where necessary.
146. Imprisonment of witnesses on refusal to enter into undertaking.
147. Conditional examination of witness unable to procure sureties.
148. Keeping of papers on file.
149. Delivery of transcript and papers to district attorney; return thereof.
150. Turning over undertakings or money deposits to district court.

Section 141. Preliminary hearing.—When a person is charged, other than by information direct, with an offense not triable before a magistrate, the magistrate shall hold a preliminary hearing and if he is satisfied that the offense has been committed and that there exists probable cause that the defendant has committed the same, he shall remand the defendant to jail, or admit him to bail, as the case may be, for his appearance before the district court to answer the charge. If there is no evidence than an offense has been committed, or no probable cause showing the defendant's connection therewith, he shall be discharged. (Feb. 21, 1933, ch. 110, sec. 22 [41], 47 Stat. 883.)

CROSS-REFERENCES

Bail upon being held to answer before information, see sections 571 to 575 of this title.

Jurisdiction to hold preliminary hearings, see title 7, section 3.

Proceedings on complaint against corporation, see sections 831 to 837 of this title.

142. Committing defendant to district court.—When a magistrate orders the defendant to be held to answer, after preliminary hearing in cases triable in the district court, he must make out a commitment signed by him with his name and office and deliver it with the defendant to the officer to whom he is committed, or if that officer is not present, to a peace officer, who must deliver the defendant to the proper custody, together with the commitment.—(Feb. 21, 1933, ch. 110, sec. 20 [33], 47 Stat. 883.)

CROSS-REFERENCE

Filing of information after commitment, see section 174 of this title.

143. Form of commitment.—The commitment must be to the following effect:

Magistrate's Court,
Town and Subdivision of ------,

The Government of the Canal Zone, to the warden of the jail of ------.

An order having been this day made by me, that ------ be held to answer upon a charge of (stating briefly the nature of the offense and giving as near as may be the time when and the place where the same was committed), you are commanded to receive him into your custody and detain him until he is legally discharged.

Dated this ---- day of ------, nineteen ------.

144. Binding Government witnesses by written undertaking to appear.—On holding the defendant to answer, the magistrate may take from each of the material witnesses examined before him on the part of the Government a written undertaking to the effect that he will appear and testify at the court to which the warrant and other proceedings are to be sent, or that he will forfeit the sum of $100.

145. Requiring security for appearance of witnesses where necessary.—When a magistrate is satisfied by proof on oath that there is reason to believe that any such witness will not appear and testify unless security is required, he may order the witness to enter into a written undertaking, with sureties, in such sum as he may deem proper for his appearance as specified in the next preceding section.

146. Imprisonment of witnesses on refusal to enter into undertaking.—If a witness, required to enter into an undertaking to appear and testify, either with or without sureties, refuses compliance with the order for that purpose, the magistrate must commit him to jail until he complies or is legally discharged.

147. Conditional examination of witness unable to procure sureties.—When, however, it satisfactorily appears by examination, on oath, of the witness or any other person, that the witness is unable to procure sureties, he may be forthwith conditionally examined on behalf of the Government. Such examination must be by question and answer, in the presence of the defendant or after notice to him if on bail, and conducted in the manner provided in sections 686 to 690 of this title, and the witness thereupon discharged; and such deposition may be used upon the trial under the same conditions as mentioned in section 691 of this title; but this section does not apply to an accomplice in the commission of the offense charged.

Cross-Reference

Conditional examination of witnesses generally, see sections 681 to 691 of this title.

148. Keeping of papers on file.—A magistrate shall keep all papers relating to criminal matters in which preliminary hearing has been held in good order and on file in his office for a term not to exceed two days. (Feb. 21, 1933, ch. 110, sec. 26 [59], 47 Stat. 884.)

149. Delivery of transcript and papers to district attorney; return thereof.—Within the time mentioned in the next preceding section the magistrate shall deliver to the district attorney a transcript of all proceedings had in such cases, and all papers relating thereto including the original complaint, warrant, affidavits and the names of the witnesses. The district attorney shall return all such papers to the magistrate in every case in which the district attorney does not file an information. (Feb. 21, 1933, ch. 110, sec. 26 [59], 47 Stat. 884.)

150. Turning over undertakings or money deposits to district court.—After the filing of an information by the district attorney, the magistrate shall turn over to the clerk of the district court all undertakings or moneys deposited in lieu thereof with the magistrate for appearance in the district court. (Feb. 21, 1933, ch. 110, sec. 27 [60], 47 Stat. 884.)

CHAPTER 11.—PLEADING AND INFORMATION

Art. Sec.
1. General provisions ______ 161
2. Filing of information ______ 171
3. Requisites and sufficiency of information ______ 181
4. Informations for particular offenses ______ 201
5. Principals and accessories; prosecution trial and punishment ___ 211

Cross-References

Compromising certain offenses by leave of court, see sections 801 to 804 of this title.

Dismissal of action before or after information, see sections 791 to 795 of this title.

ARTICLE 1.—GENERAL PROVISIONS

Sec.
161. Forms and rules of pleading.
162. Materiality of errors or departures in pleading.

Section 161. Forms and rules of pleading.—All the forms of pleading in criminal actions, and the rules by which the sufficiency of pleadings is to be determined, are those prescribed by this title.

162. Materiality of errors or departures in pleading.—Neither a departure from the form or mode prescribed by this title in respect to any pleading or proceedings, nor an error or mistake therein, renders it invalid unless it has actually prejudiced the defendant or tended to his prejudice in respect of a substantial right.

CROSS-REFERENCE

Defects of form in information, see section 189 of this title.

ARTICLE 2.—FILING OF INFORMATION

Sec.
171. Information defined.
172. Offenses prosecuted by information.
173. Investigation by district attorney after commitment of defendant.
174. Filing information after such investigation.
175. Informations filed with clerk.
176. Ordering discharge after such investigation.
177. Remanding cause to magistrate.

171. Information defined.—The information is an allegation in writing made to the district court by the district attorney charging a person with a public offense, and is the first pleading on the part of the Government in all criminal matters within the original jurisdiction of the district court. (Feb. 21, 1933, ch. 110, sec. 28 [62], 47 Stat. 884.)

CROSS-REFERENCES

Amendment of information, see section 257 of this title.
Filing of information against corporation, see section 835 of this title.
New information because of variance between allegations and proof, see section 420 of this title.

172. Offenses prosecuted by information.—Every offense of which the district court has original jurisdiction must be prosecuted by information signed by the district attorney, or in the case of his absence by an assistant district attorney. (Feb. 21, 1933, ch. 110, sec. 2 [3], 47 Stat. 880.)

173. Investigation by district attorney after commitment of defendant.—When a defendant has been committed as provided in sections 141 and 142 of this title, the district attorney may, within twenty days thereafter, issue subpenas for witnesses and examine such witnesses under oath as to the offense charged. Such examination shall be conducted in private. (Feb. 21, 1933, ch. 110, sec. 35 [92], 47 Stat. 885.)

CROSS-REFERENCE

General power of district attorney to issue subpenas for witnesses, see section 655 of this title.

174. Filing information after such investigation.—If it appears from the investigation that a public offense has been committed, and that there is sufficient cause to believe the defendant guilty thereof, the district attorney shall, within such twenty-day period, file an information against the person in the division of the district court in which the offense is triable, charging the defendant with the offense. (Feb. 21, 1933, ch. 110, sec. 37 [94], 47 Stat. 885.)

CROSS-REFERENCES

Filing information direct, see section 141 of this title.
Filing information following discharge of defendant upon preliminary hearing, see title 7, section 3.
Filing information after discharge of defendant during trial, see section 388 of this title.

175. Informations filed with clerk.—All informations must be filed with the clerk of the district court. (Feb. 21, 1933, ch. 110, sec. 29 [64], 47 Stat. 884.)

176. Ordering discharge after such investigation.—If, after investigation, it appears either that no public offense has been committed, or that there is not sufficient cause to believe the defendant guilty, the district attorney must, within such twenty-day period, order that the defendant be discharged, and shall file with the committing magistrate the original proceedings indorsed thereon as follows: "There being no sufficient cause to believe the within named, A. B., to be guilty of an offense, I order his discharge." (Feb. 21, 1933, ch. 110, sec. 36 [93], 47 Stat. 885.)

177. Remanding cause to magistrate.—If the offense committed is within the jurisdiction of a magistrate's court, the cause shall be remanded thereto for proceedings therein as prescribed by law.

ARTICLE 3.—REQUISITES AND SUFFICIENCY OF INFORMATION

Sec.
181. Requisites of information in general.
182. Form of information.
183. Requirement of directness and certainty in certain regards.
184. Use of words employed to define offense.
185. Charging but one offense.
186. Different counts or alternative means in same count.
187. Sufficiency of information in general.
188. Construction of words used.
189. Immateriality of formal defects or imperfections.
190. Insertion of true name of defendant whenever discovered.
Sec.
191. Allegation as to time of commission of offense.
192. Allegation as to person injured.
193. Allegation of presumptions of law or matters judicially noticed.
194. Pleading private law or right derived therefrom.
195. Charging previous conviction of offenses.
196. Pleading judgment or other proceeding before judge or officer.
197. Conviction or acquittal of one or more of several defendants.

181. Requisites of information in general.—The information must contain:

a. The title of the action;

b. The name of the court to which it is presented;

c. The names of the parties;

d. A statement in ordinary and concise language of the acts constituting the offense, in such manner as to enable a person of common understanding to know what is intended; and

e. A statement that it is based upon due investigation of the facts relating to the crime charged therein, and upon the sworn testimony of one or more witnesses. (Feb. 21, 1933, ch. 110, sec. 2 [3], 47 Stat. 880.)

CROSS-REFERENCE

Failure of information to charge an offense, see section 388 of this title.

182. Form of information.—It may be substantially in the following form:

In the United States District Court for the District of the Canal Zone, Division of ------.

The Government of the Canal Zone against ------: Information.

------, district attorney for the Canal Zone, comes into the district court for the said division, and for the Government of the Canal Zone gives the court here to be informed and to understand that: ______ on the ______ day of ______ A.D. 19__, in the division aforesaid, did then and there (here set forth the act or omission charged as an offense) and so did then and there commit the offense of (here state the character of the offense committed, whether it be murder, arson, larceny or the like, or designating it as a felony or misdemeanor) contrary to the law in such case made and provided and against the peace and dignity of the Government of the Canal Zone.

This information is based upon due investigation of the facts relating to the crime charged herein, and on the sworn testimony of one or more witnesses, and I believe that there is just cause for the filing of this information.

Signed this ______ day of ______, A.D. 19__:

District Attorney.

(Feb. 21, 1933, ch. 110, sec. 30 [67], 47 Stat. 884.)

183. Requirement of directness and certainty in certain regards.—The information must be direct and certain as regards:

a. The party charged;

b. The offense charged; and

c. The particular circumstances of the offense charged, when they are necessary to constitute a complete offense. (Feb. 21, 1933, ch. 110, sec. 31 [70], 47 Stat. 885.)

184. Use of words employed to define offense.—Words used in a law to define a public offense need not be strictly pursued in the information, but other words conveying the same meaning may be used.

185. Charging but one offense.—The information must charge but one offense.

186. Different counts or alternative means in same count.—The same offense may be set forth in different forms under different counts, and when the offense is committed by the use of different means, the means may be alleged in the alternative in the same count.

187. Sufficiency of information in general.—The information is sufficient if it can be understood therefrom, that:

a. It is entitled in a court having authority to receive it, though the name of the court be not stated;

b. It is signed and filed by the district attorney of the Canal Zone;

c. The defendant is named, or if his name cannot be discovered, that he is described by a fictitious name, with a statement that his true name is to the district attorney unknown;

d. The offense was committed at some place within the jurisdiction of the court, except where the act, though done without the local jurisdiction of the court, is triable therein;

e. The offense was committed at some time prior to the time of filing the information;

f. The act or omission charged as the offense is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended; and

g. The act or omission charged as the offense, is stated with such a degree of certainty as to enable the court to pronounce judgment upon a conviction, according to the right of the case. (Feb. 21, 1933, ch. 110, sec. 32 [77, subd. 2], 47 Stat. 885.)

Cross-Reference

Setting aside the information, see sections 241 to 245 of this title.

188. **Construction of words used.**—The words used in an information are to be construed in their usual acceptance in common language, except such words and phrases as are defined by law, which are to be construed according to their legal meaning.

189. **Immateriality of formal defects or imperfections.**—No information is insufficient, nor can the trial, judgment, or other proceeding thereon be affected by reason of any defect or imperfection in matter of form which does not tend to the prejudice of the rights of the defendant upon its merits.

Cross-Reference

Formal defects or imperfections in pleadings or proceedings generally, see section 162 of this title.

190. **Insertion of true name of defendant whenever discovered.**—When a defendant is charged by a fictitious or erroneous name, and at any stage of the proceedings his true name is discovered, it must be inserted in the subsequent proceedings, referring to the fact of his being charged by the name mentioned in the information.

Cross-Reference

Directing defendant upon arraignment to declare true name, see section 230 of this title.

191. **Allegation as to time of commission of offense.**—The precise time at which the offense was committed need not be stated in the information, but it may be alleged to have been committed at any time before the finding or filing thereof, except where the time is a material ingredient in the offense.

192. **Allegation as to person injured.**—When an offense involves the commission of, or an attempt to commit, a private injury, and is described with sufficient certainty in other respects to identify the act, an erroneous allegation as to the person injured, or intended to be injured, is not material.

193. **Allegation of presumptions of law or matters judicially noticed.**—Neither presumptions of law nor matters of which judicial notice is taken need be stated in the information.

194. **Pleading private law or right derived therefrom.**—In pleading a private law, or a right derived therefrom, it is sufficient to refer to the law by its title and the day of its passage, and the court must thereupon take judicial notice thereof.

195. Charging previous conviction of offenses.—In charging in an information the fact of a previous conviction of felony, or of an attempt to commit an offense which if perpetrated would have been a felony, or of petit larceny, it is sufficient to state, "That the defendant, before the commission of the offense charged in this information, was in (giving the title of the court in which the conviction was had) convicted of a felony (or attempt, and so forth, or of petit larceny)." If more than one previous conviction is charged, the date of the judgment upon each conviction must be stated, but not more than two previous convictions must be charged in any one information. (Feb. 21, 1933, ch. 110, sec. 33 [86a], 47 Stat. 885.)

CROSS-REFERENCES

Punishment for subsequent offenses, see title 5, sections 71 to 76.
Finding on charge of previous conviction, see section 413 of this title.

196. Pleading judgment or other proceeding before judge or officer.—In pleading a judgment or other determination of, or proceeding before a court or officer of special jurisdiction, it is not necessary to state the facts constituting jurisdiction; but the judgment or determination may be stated as given or made, or the proceedings had. The facts constituting jurisdiction, however, must be established on the trial.

197. Conviction or acquittal of one or more of several defendants.—Upon an information against several defendants any one or more may be convicted or acquitted.

ARTICLE 4.—INFORMATIONS FOR PARTICULAR OFFENSES

Sec.
201. Information for libel.
202. Information for forgery where instrument destroyed or withheld.
203. Information for perjury or subornation of perjury.
204. Information for larceny or embezzlement of money or securities.
205. Information for selling obscene books or papers.

201. Information for libel.—An information for libel need not set forth any extrinsic facts for the purpose of showing the application to the party libeled of the defamatory matter on which the information is founded; but it is sufficient to state generally that the same was published concerning him, but the fact that it was so published must be established at the trial.

202. Information for forgery where instrument destroyed or withheld.—When an instrument which is the subject of an information for forgery has been destroyed or withheld by the act or procurement of the defendant, and the fact of such destruction or withholding is alleged in the information, and established on the trial, the misdescription of the instrument is immaterial.

203. Information for perjury or subornation of perjury.—In an information for perjury, or subornation of perjury, it is sufficient to set forth the substance of the controversy or matter in respect to which the offense was committed, and in what court and before whom the oath alleged to be false was taken, and that the court or the person before whom it was taken, had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the information need not set forth the pleadings, record or proceedings with which the oath is connected, nor the commission or authority of the court or person before whom the perjury was committed.

204. Information for larceny or embezzlement of money or securities.—In an information for the larceny or embezzlement of money, bank notes, certificates of stock or valuable securities, or for a conspiracy to cheat or defraud a person of any such property, it is sufficient to allege the larceny or embezzlement, or the conspiracy to cheat or defraud, to be of money, bank notes, certificates of stock or valuable securities, without specifying the coin, number, denomination or kind thereof.

205. Information for selling obscene books or papers.—An information for exhibiting, publishing, passing, selling, or offering to sell, or having in possession with such intent, any obscene book, pamphlet, picture, print, card, paper or writing, need not set forth any portion of the language used or figures shown upon such book, pamphlet, picture, print, card, paper or writing; but it is sufficient to state generally the fact of the obscenity thereof.

ARTICLE 5.—PRINCIPALS AND ACCESSORIES; PROSECUTION, TRIAL AND PUNISHMENT

Sec.
211. Prosecution as principals of all persons concerned in felony.
212. Prosecution of accessory to felony though principal not prosecuted.

211. Prosecution as principals of all persons concerned in felony.—All persons concerned in the commission of a felony, whether they directly commit the act constituting the offense or aid in abetting its commission, shall be prosecuted, tried and punished as principals, and no other fact need be alleged in the information against them other than is required in the information against the principal.

CROSS-REFERENCE

Principles and accessories, see title 5, sections 51 to 55.

212. Prosecution of accessory to felony though principal not prosecuted.—An accessory to the commission of a felony may be prosecuted, tried and punished though the principal may be neither prosecuted nor tried.

CHAPTER 12.—PLEADINGS AND PROCEEDINGS AFTER INFORMATION FILED AND BEFORE COMMENCEMENT OF TRIAL

Art. Sec.
1. Arraignment of the defendant 221
2. Setting aside the information 241
3. Demurrer; amendment of information 251
4. Plea 271
5. Removal of the action before trial 291
6. The mode of trial 301
7. The calendar of pending actions 311
8. Preparation for, and postponement of, trial 321

CROSS-REFERENCES

Compromising certain offenses by leave of court, see sections 801 to 804 of this title.

Dismissal of action, see sections 791 to 795 of this title.

Inquiry into sanity of defendant before trial or after conviction, see sections 811 to 816 of this title.

ARTICLE 1.—ARRAIGNMENT OF THE DEFENDANT

Sec.
221. Necessity of arraignment on information.
222. Presence of defendant on arraignment.
223. Bringing defendant before court if in custody.
224. Failure of defendant on bail to appear; bench warrant.
225. Issuance of bench warrant at any time after order.
226. Form of bench warrant.
227. Service of bench warrant in either division.
228. Right of defendant to counsel.
229. Making of arraignment.
230. Directing defendant to declare his true name.
231. Right to reasonable time to answer.
232. Answering upon arraignment by motion, demurrer or plea.

Section 221. Necessity of arraignment on information.—After the filing of an information, the defendant must, if the offense is a felony, be arraigned before the division of the district court in which the information is filed, unless the cause is transferred to the other division for trial. If the offense is a misdemeanor the defendant need not be arraigned, but when the trial begins the clerk shall read the information. (Feb. 21, 1933, ch. 110, sec 44 [125], 47 Stat. 886.)

222. Presence of defendant on arraignment.—The defendant must be personally present on arraignment for a felony. (Feb. 21, 1933, ch. 110, sec 44 [125], 47 Stat. 886.)

223. Bringing defendant before court if in custody.—When the personal appearance of the defendant is necessary, if he is in custody, the court may direct, and the officer in whose custody he is must bring him before it to be arraigned.

224. Failure of defendant on bail to appear; bench warrant.—If the defendant has been discharged on bail, or has deposited money in lieu thereof, and does not appear to be arraigned when his personal attendance is necessary, the court, in addition to the forfeiture of the undertaking of bail or of the money deposited, may direct the clerk to issue a bench warrant for his arrest.

225. Issuance of bench warrant at any time after order.—The clerk, on application of the district attorney, may, at any time after the order, whether the court is sitting or not, issue a bench warrant for the arrest of the defendant.

226. Form of bench warrant.—The bench warrant upon the information must be substantially in the following form:

In the United States District Court for the District of the Canal Zone, Division of ______.

The Government of the Canal Zone.

BENCH WARRANT

To the MARSHAL OR ANY PEACE OFFICER OF THE CANAL ZONE:

An information having been filed on the ____ day of ____ A.D. ____, in the ____ division of the United States District Court for the District of the Canal Zone, charging ____ with the crime of ______________________, you are therefore commanded
(designating it generally)
forthwith to arrest the above-named __________ and bring him before the court (or if the information has been sent to the other

division, that division must be named as the place to bring the defendant) to answer said information; or if the court be not in session, that you deliver him into the custody of the warden of said district.

Given under my hand with the seal of the court affixed, this ---- day of ----, A.D. ----.

By order of the Court.

[SEAL]

Clerk of the Court.

(Feb. 21, 1933, ch. 110, sec. 45 [129], 47 Stat. 886.)

227. Service of bench warrant in either division.—A bench warrant may be served in either division of the Canal Zone.

228. Right of defendant to counsel.—If the defendant appears for arraignment without counsel, he must be informed by the court that it is his right to have counsel before being arraigned, and must be asked if he desires the aid of counsel. If he desires and is unable to employ counsel, the court may, subject to the provisions of section 43 of title 7, assign counsel to defend him. (Feb. 21, 1933, ch. 110, sec. 46 [134], 47 Stat. 887.)

229. Making of arraignment.—The arraignment must be made by the district attorney and consists in reading the information to the defendant and delivering to him a copy thereof, and of the indorsements thereon including the list of witnesses, whereupon the court asks him whether he pleads guilty or not guilty to the information.

230. Directing defendant to declare his true name.—When the defendant is arraigned he must be informed that if the name by which he is prosecuted is not his true name he must then declare his true name or be proceeded against by the name in the information. If he gives no other name the court may proceed accordingly; but if he alleges that another name is his true name the court must direct an entry thereof in the minutes of the arraignment and the subsequent proceedings on the information may be had against him by that name, referring also to the name by which he was first charged therein.

CROSS-REFERENCE

Insertion of true name when discovered, see section 190 of this title.

231. Right to reasonable time to answer.—If the defendant requires it upon arraignment, he must be allowed a reasonable time, not less than one day, to answer the information.

232. **Answering upon arraignment by motion, demurrer or plea.**—In answer to the arraignment the defendant may move to set aside, demur or plead to the information. The only pleading on the part of the defendant is either a demurrer or a plea. Both the demurrer and plea must be made in open court either at the time of the arraignment or at such other time as may be allowed to the defendant for that purpose.

ARTICLE 2.—SETTING ASIDE THE INFORMATION

Sec.
241. Ground for setting aside information.
242. Waiver of objection.
243. Hearing and determination of motion.
244. Effect of direction that new information be filed.
245. Order no bar to future prosecution.

241. Ground for setting aside information.—When the information is not subscribed by the district attorney, it must be set aside by the court in which the defendant is arraigned, upon his motion. (Feb. 21, 1933, ch. 110, sec. 47 [138], 47 Stat. 887.)

242. Waiver of objection.—If the motion to set aside the information is not made, the defendant is precluded from afterward taking the objection.

243. Hearing and determination of motion.—The motion must be heard at the time it is made unless for cause the court postpones the hearing to another time. If the motion is denied the defendant must immediately answer the information either by demurring or pleading thereto. If the motion is granted the court must order that the defendant, if in custody, be discharged therefrom; or, if admitted to bail, that his bail be exonerated; or, if he has deposited money instead of bail, that the same be refunded to him, unless it directs that an information be filed by the district attorney. (Feb. 21, 1933, ch. 110, sec. 48 [140], 47 Stat. 887.)

244. Effect of direction that new information be filed.—If the court directs a new information to be filed the defendant, if already in custody, must so remain unless he is admitted to bail or, if already admitted to bail or if money has been deposited in lieu thereof, the bail or money is answerable for the appearance of the defendant to answer the new information; but unless the new information is filed within fifteen days, the court must order the defendant discharged unless for special reason the court extends the time for the filing of the information.

245. Order no bar to future prosecution.—An order to set aside an information, as provided in this article, is no bar to a future prosecution for the same offense.

ARTICLE 3.—DEMURRER; AMENDMENT OF INFORMATION

Sec.
251. Demurrer defined.
252. Grounds for demurrer.
253. Requisites of demurrer.
254. Argument on demurrer.
255. Judgment on demurrer.
256. Effect of allowance of demurrer.
257. Amendment of information.
258. Effect of failure to permit amendment or authorize new information.
259. Permitting defendant to plead where demurrer disallowed.
260. Necessity of making certain objections by motion or demurrer.

251. Demurrer defined.—A demurrer is an allegation that, admitting the facts as stated in the information, such facts do not constitute an offense against the law whereby the defendant should be put on trial.

CROSS-REFERENCE

Answering upon arraignment by motion, demurrer or plea, see section 232 of this title.

252. Grounds for demurrer.—The defendant may demur to the information, when it appears on the face thereof either that:

a. It does not substantially conform to the requirements of this title;

b. More than one offense is charged;

c. The facts stated do not constitute a public offense; or

d. It contains any matter which if true would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

253. Requisites of demurrer.—The demurrer must be in writing, signed either by the defendant or his counsel, and filed. It must distinctly specify the grounds of objection to the information, or it must be disregarded.

254. Argument on demurrer.—Upon the demurrer being filed the argument upon the objection presented thereby must be heard either immediately or at such time as the court may appoint.

255. Judgment on demurrer.—Upon considering the demurrer the court must give judgment either allowing or disallowing it and an order to that effect must be entered upon the minutes.

256. Effect of allowance of demurrer.—If a demurrer is allowed, the judgment is final upon the information demurred to, and is a bar to another prosecution for the same offense, unless the court, being of the opinion that the objection on which the demurrer is sustained may be avoided in a new information, directs a new information to be filed. (Feb. 21, 1933, ch. 110, sec. 49 [150], 47 Stat. 887.)

257. Amendment of information.—An information may be amended by the district attorney without leave of court, at any time before the defendant pleads. Such amendment may be made at any time thereafter, in the discretion of the court, where it can be done without prejudice to the substantial rights of the defendant. (Feb. 21, 1933, ch. 110, sec. 49 [150], 47 Stat. 887.)

CROSS-REFERENCE

New information where defendant discharged for lack of jurisdiction or failure to charge offense, see section 388 of this title.

258. Effect of failure to permit amendment or authorize new information.—If the court does not permit the information to be amended nor direct that a new information be filed, the defendant, if in custody, must be discharged, or if admitted to bail, his bail is exonerated, or if he has deposited money instead of bail, the money must be refunded to him.

259. Permitting defendant to plead where demurrer disallowed.—If the demurrer is disallowed, the court must permit the defendant, at his election, to plead, which he must do forthwith or at such time as the court may direct.

260. Necessity of making certain objections by motion or demurrer.—When the objections appear on the face of the information they can only be taken advantage of by motion or demurrer, except that the objection to the jurisdiction of the court over the subject of the information, or that the facts stated do not constitute a public offense, may be taken at the trial under the plea of not guilty or after the trial in arrest of judgment.

ARTICLE 4.—PLEA

Sec.
271. The different kinds of pleas.
272. Pleas oral; form of entry on minutes.
273. Entry and withdrawal of plea of guilty.
274. Issues arising from plea of not guilty.
275. Defenses admissible under plea of not guilty.
276. Former acquittal other than on merits.
277. Former acquittal on merits.
278. Conviction, acquittal or jeopardy as bar.
279. Entry of plea when defendant refuses to answer.
280. Plea and procedure on charge of previous conviction.

271. The different kinds of pleas.—There are four kinds of pleas to an information. A plea of:

a. Guilty;

b. Not guilty;

c. A former judgment of conviction or acquittal of the offense charged, which may be pleaded either with or without the plea of not guilty; and

d. Once in jeopardy.

CROSS-REFERENCES

Answering upon arraignment by motion, demurrer or plea, see section 232 of this title.

Former conviction or acquittal, see section 8 of this title; and title 1, section 1.

272. Pleas oral; form of entry on minutes.—Every plea must be oral and be entered upon the minutes of the court in substantially the following form:

a. If the defendant pleads guilty: "The defendant pleads that he is guilty of the offense charged;"

b. If he pleads not guilty: "The defendant pleads that he is not guilty of the offense charged;"

c. If he pleads a former conviction or acquittal: "The defendant pleads that he has already been convicted (or acquitted) of the offense charged by the judgment of the court of ——— (naming it), rendered at ——— (naming the place), ——— on the ——— day of ———"; and

d. If he pleads once in jeopardy: "The defendant pleads that he has been in jeopardy for the offense charged (specifying the time, place, and court)."

273. Entry and withdrawal of plea of guilty.—A plea of guilty can be entered only by the defendant himself in open court, unless upon information against a corporation in which case it may be put in by counsel. The court may at any time before judgment upon a plea of guilty permit it to be withdrawn and a plea of not guilty substituted.

274. Issues arising from plea of not guilty.—The plea of not guilty puts in issue every material allegation of the information.

275. Defenses admissible under plea of not guilty.—All matters of fact tending to establish a defense, other than those specified in paragraphs c and d of section 271 of this title, may be given in evidence under a plea of not guilty.

276. Former acquittal other than on merits.—If the defendant was formerly acquitted on the ground of variance between the information and the proof, or the information was dismissed upon an objection to its form or substance, or in order to hold the defendant for a higher offense, without a judgment of acquittal, it is not an acquittal of the same offense.

277. Former acquittal on merits.—Whenever the defendant is acquitted on the merits he is acquitted of the same offense notwithstanding any defect in form or substance in the information on which the trial was had.

278. Conviction, acquittal or jeopardy as bar.—When the defendant is convicted or acquitted, or has been once placed in jeopardy upon an information, the conviction, acquittal or jeopardy is a bar to another information for the offense charged in the former, or for an attempt to commit the same, or for an offense necessarily included therein, of which he might have been convicted under that information.

279. Entry of plea when defendant refuses to answer.—If the defendant refuses to answer the information by demurrer or plea, a plea of not guilty must be entered.

280. Plea and procedure on charge of previous conviction.—When a defendant who is charged in the information with having suffered a previous conviction, pleads either guilty or not guilty of the offense for which he is informed against, he must be asked whether he has suffered such previous conviction. If he answers that he has, his answer must be entered by the clerk in the minutes of the court, and must, unless withdrawn by consent of the court, be conclusive of the fact of his having suffered such previous conviction in all subsequent proceedings. If he answers that he has not, his answer must be entered by the clerk in the minutes of the court, and the question whether or not he has suffered such previous conviction must be tried by the court or jury which tries the issue upon the plea of not guilty, or in case of a plea of guilty, by the court or a jury impaneled for that purpose. The refusal of the defendant to answer is equivalent to a denial that he has suffered such previous conviction. In case the defendant pleads not guilty, and answers that he has suffered the previous conviction, the charge of the previous conviction must not be read to the court or jury, nor alluded to on the trial. (Feb. 21, 1933, ch. 110, sec. 50 [163a], 47 Stat. 887.)

ARTICLE 5.—REMOVAL OF THE ACTION BEFORE TRIAL

Sec.
291. Ground for removal in general.
292. Application for removal.
293. Ordering transfer upon application of defendant.
294. Ordering transfer upon agreement of parties.
295. Order when defendant in custody.
296. Transmission of copy of order and proceedings to other division.
297. Obtaining original pleadings or papers where necessary.
298. Trial and judgment after removal.

291. Ground for removal in general.—A criminal action may on the application of the defendant be removed from the division or subdivision in which it is pending, on the ground that a fair and impartial trial cannot be had in that division or subdivision.

CROSS-REFERENCE

Venue of offenses, see section 13 of this title.

292. Application for removal.—The application must be made in open court and must be in writing and verified by the affidavit of the defendant. A copy of the application must be served upon the district attorney at least one day prior to the hearing thereof. When the affidavit shows that the defendant cannot safely appear in person to make the application because popular prejudice is so great as to endanger his personal safety, and that statement is sustained by other testimony, the application may be made by his attorney and shall be heard and determined in the absence of the defendant even though the charge then pending against him is a felony and he has not at the time of the application been arrested, given bail, been arraigned, or pleaded or demurred to the information.

293. Ordering transfer upon application of defendant.—If the court is satisfied that the representations of the applicant are true, an order must be made and entered upon the minutes, transferring the action to the other division or subdivision.

294. Ordering transfer upon agreement of parties.—The court may also order the removal of the action from one division to the other upon the agreement of the parties. (Feb. 21, 1933, ch. 110, sec. 51 [169a], 47 Stat. 888.)

295. Order when defendant in custody.—If the defendant is in custody the order must direct his removal and he must be forthwith removed by the warden where he is imprisoned to the custody of the warden of the division or subdivision to which the action is removed.

296. Transmission of copy of order and proceedings to other division.—Upon the entering of an order of removal the clerk must immediately make out and transmit to the division or subdivision to which the action is removed a certified copy of the order of removal, record, pleadings and proceedings in the action, including the undertakings for the appearance of the defendant and of the witnesses.

297. Obtaining original pleadings or papers where necessary.—If it is necessary to have any of the original pleadings or other papers before the division or subdivision to which the action is removed, the other division or subdivision must at any time, upon application of the district attorney or the defendant, order such papers or pleadings to be transmitted by the clerk, a certified copy thereof being retained.

298. Trial and judgment after removal.—The division or subdivision to which the action is removed must proceed to trial and judgment as if the action had been commenced therein.

ARTICLE 6.—THE MODE OF TRIAL

Sec.
301. Pleas upon which issues of fact arise.
302. Trial of issues of fact by jury unless waived.
303. Number of jurors.
304. Presence of defendant at trial.

301. Pleas upon which issues of fact arise.—An issue of fact arises:

a. Upon a plea of not guilty;

b. Upon a plea of a former conviction or acquittal of the same offense; and

c. Upon a plea of once in jeopardy. (Feb. 21, 1933, ch. 110, sec. 52 [170], 47 Stat. 888.)

302. Trial of issues of fact by jury unless waived.—Issues of fact in criminal cases within the original jurisdiction of the district court must be tried by jury, unless a trial by jury is waived. (Feb. 21, 1933, ch. 110, sec. 53 [171], 47 Stat. 888.)

CROSS-REFERENCES

Juries and jury trials, see title 7, sections 33 to 35.
Challenging the jury, see sections 331 to 337 of this title.
Modes of conviction of offenses, see section 15 of this title.

303. Number of jurors.—All criminal cases in the district court in which a jury is had, shall be tried by a jury of twelve. (Feb. 21, 1933, ch. 110, sec. 75 [209b], 47 Stat. 893.)

304. Presence of defendant at trial.—If the prosecution is for a felony the defendant must be personally present at the trial. If the prosecution is for a misdemeanor the trial may be had in the absence of the defendant; but if his presence is necessary for the purpose of identification the court may, upon application of the district attorney, by an order or warrant, require the personal attendance of the defendant at the trial.

CROSS-REFERENCES

Presence of defendant at verdict and judgment, see sections 404 and 486 of this title.
Presence at trial in magistrate's court, see section 126 of this title.

ARTICLE 7.—THE CALENDAR OF PENDING ACTIONS

Sec.
311. Keeping by clerk of calendar of pending actions.
312. Order in which pending prosecutions tried.

311. Keeping by clerk of calendar of pending actions.—The clerk must keep a calendar of all criminal actions pending in the court, enumerating them according to the date of the filing of the information, specifying opposite the title of each action whether it is for a felony or a misdemeanor, and whether the defendant is in custody or on bail.

312. Order in which pending prosecutions tried.—The issues on the calendar must be disposed of in the following order, unless for good cause the court shall direct an action to be tried out of its order:

a. Prosecutions for felony when the defendant is in custody;

b. Prosecutions for misdemeanor when the defendant is in custody;
c. Prosecutions for felony when the defendant is on bail; and
d. Prosecutions for misdemeanor when the defendant is on bail.

ARTICLE 8.—PREPARATION FOR, AND POSTPONEMENT OF, TRIAL

Sec.
321. Right of defendant to time to prepare for trial.
322. Postponement of trial.

321. Right of defendant to time to prepare for trial.—After his plea the defendant is entitled to at least two days to prepare for trial. (Feb. 21, 1933, ch. 110, sec. 54 [175], 47 Stat. 888.)

322. Postponement of trial.—When an action is called for trial, or at any time previous thereto, the court may upon sufficient cause direct the trial to be postponed to another day.

CHAPTER 13.—PROCEEDINGS AFTER THE COMMENCEMENT OF THE TRIAL AND BEFORE JUDGMENT

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Cross-References

Dismissal of action, see sections 791 to 795 of this title.

Disposal of property stolen or embezzled and recovered, see sections 821 to 827 of this title.

Inquiry into insanity of defendant before or during trial or after conviction, see sections 811 to 816 of this title.

Mode of trial, see sections 301 to 304 of this title.

ARTICLE 1.—CHALLENGING THE JURY

Sec.
331. Definition and kinds of challenge.
332. Necessity that several defendants join in challenges.
333. Panel defined.
334. Challenge to panel defined.
335. Grounds of challenge to panel.
336. Time and method of challenge to panel.
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341. Effect of determination upon exception to or denial of challenge.
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343. Kinds of challenge to individual juror.
344. Time for challenge to individual juror.
345. Peremptory challenge.
346. Number of peremptory challenges; waiver.
347. Challenge for cause; kinds.
348. General causes of challenge.
349. Implied and actual bias.
350. Challenge for implied bias.
351. Exemption from service as cause of challenge.
352. Stating causes of challenge.
353. Exception to or denial of challenge.
354. Trial of challenge.
355. Examination of juror challenged.
356. Examining other witnesses.
357. Allowance or disallowance of challenge.

Section 331. Definition and kinds of challenge.—A challenge is an objection made to the trial jurors, and is of two kinds:

a. To the panel; and

b. To an individual juror. (Feb. 21, 1933, ch. 110, sec. 55 [176a], 47 Stat. 888.)

Cross-References

Right to trial by jury, see section 302 of this title.

Selection, summoning, serving and compensation of jurors, see title 7, sections 33 to 35.

332. **Necessity that several defendants join in challenges.**—When several defendants are tried together they cannot sever their challenges, but must join therein. (Feb. 21, 1933, ch. 110, sec. 55 [176b], 47 Stat. 888.)

333. **Panel defined.**—The panel is a list of jurors to serve for a particular period or for the trial of a particular action. (Feb. 21, 1933, ch. 110, sec. 55 [176c], 47 Stat. 888.)

334. **Challenge to panel defined.**—A challenge to the panel is an objection made to all the jurors returned, and may be taken by either party. (Feb. 21, 1933, ch. 110, sec. 55 [176d], 47 Stat. 888.)

335. **Grounds of challenge to panel.**—A challenge to the panel can be founded only on a material departure from the forms prescribed in respect to the drawing and return of the jury, or on the intentional omission of the marshal to summon one or more of the jurors drawn. (Feb. 21, 1933, ch. 110, sec. 55 [176e], 47 Stat. 888.)

336. **Time and method of challenge to panel.**—A challenge to the panel must be taken before a juror is sworn and must be in writing or be noted by the reporter, and must plainly and distinctly state the facts constituting the ground of challenge. (Feb. 21, 1933, ch. 110, sec. 55 [176f], 47 Stat. 888.)

337. **Exception to challenge to panel.**—If the sufficiency of the facts alleged as ground of the challenge is denied the adverse party may except to the challenge. The exception need not be in writing but must be entered on the minutes of the court or of the reporter and thereupon the court must proceed to try the sufficiency of the challenge, assuming the facts alleged therein to be true. (Feb. 21, 1933, ch. 110, sec. 55 [176g], 47 Stat. 888.)

338. **Determination on exception to challenge to panel.**—If on exception the court finds the challenge sufficient it may if justice requires it permit the party excepting to withdraw his exception and to deny the facts alleged in the challenge. If exception is allowed the court may in like manner permit an amendment of the challenge. (Feb. 21, 1933, ch. 110, sec. 55 [176h], 47 Stat. 888.)

339. **Denial of challenge and trial thereon.**—If the challenge is denied the denial may be oral and must be entered on the minutes of the court or of the reporter and the court must proceed to try the question of fact. Upon such trial the officers, whether judicial or ministerial, whose irregularity is complained of, as well as any other persons, may be examined to prove or disprove the facts alleged as the ground of the challenge. (Feb. 21, 1933, ch. 110, sec. 55 [176i], 47 Stat. 889.)

340. **Challenge for bias of summoning officer.**—When the panel is formed from persons whose names are not drawn as jurors, a challenge may be taken to the panel on account of any bias of the officer who summoned them which would be good ground of challenge to a juror. Such challenge must be made in the same form and determined in the same manner as if made to a juror. (Feb. 21, 1933, ch. 110, sec. 55 [176j], 47 Stat. 889.)

341. Effect of determination upon exception to or denial of challenge.—If, either upon an exception to the challenge or a denial of the facts, the challenge is allowed, the court must discharge the jury so far as the trial in question is concerned. If it is disallowed, the court must direct the jury to be impaneled. (Feb. 21, 1933, ch. 110, sec. 55 [176k], 47 Stat. 889.)

342. Informing defendant as to time to challenge individual juror.—Before a juror is called the defendant must be informed by the court, or under its direction, that if he intends to challenge an individual juror he must do so when the juror appears and before he is sworn. (Feb. 21, 1933, ch. 110, sec. 55 [176l], 47 Stat. 889.)

343. Kinds of challenge to individual juror.—A challenge to an individual juror is either—

a. Peremptory; or

b. For cause. (Feb. 21, 1933, ch. 110, sec. 55 [176m], 47 Stat. 889.)

344. Time for challenge to individual juror.—It must be taken when the juror appears and before he is sworn to try the cause; but the court may for cause permit it to be taken after the juror is sworn and before the jury is completed. (Feb. 21, 1933, ch. 110, sec. 55 [176n], 47 Stat. 889.)

345. Peremptory challenge.—A peremptory challenge can be taken by either party and may be oral. It is an objection to a juror for which no reason need be given but upon which the court must exclude him. (Feb. 21, 1933, ch. 110, sec. 55 [176o], 47 Stat. 889.)

346. Number of peremptory challenges; waiver.—Upon a trial by jury each side shall be entitled to six peremptory challenges. A waiver of a challenge by either party shall preclude such party except by consent of court from thereafter challenging peremptorily any juror then in the jury box, and the remaining challenges of such party shall be limited to jurors thereafter called. (Feb. 21, 1933, ch. 110, sec. 55 [176oo], 47 Stat. 889.)

347. Challenge for cause; kinds.—A challenge for cause may be taken by either party. It is an objection to a particular juror, and is either—

a. General—that the juror is disqualified from serving in any case; or

b. Particular—that he is disqualified from serving in the action on trial. (Feb. 21, 1933, ch. 110, sec. 55 [176p], 47 Stat. 889.)

348. General causes of challenge.—General causes of challenge are:

a. A conviction of felony;

b. A want of any of the qualifications prescribed by law to render a person a competent juror; and

c. Unsoundness of mind or such defect in the faculties of the mind or organs of the body as to render him incapable of performing the duties of a juror. (Feb. 21, 1933, ch. 110, sec. 55 [176q], 47 Stat. 889.)

349. **Implied and actual bias.**—Particular causes of challenge are of two kinds:

a. For such a bias as, when the existence of the facts is ascertained, in judgment of law disqualifies the juror, and which is known in this title as implied bias; and

b. For the existence of a state of mind on the part of the juror in reference to the case, or to either of the parties, which will prevent him from acting with entire impartiality and without prejudice to the substantial rights of either party, which is known in this title as actual bias. But no person shall be disqualified as a juror by reason of having formed or expressed an opinion upon the matter or cause to be submitted to such jury, founded upon public rumor, statements in public journals, or common notoriety, if it appears to the court upon his declaration under oath or otherwise that he can and will notwithstanding such an opinion act impartially and fairly upon the matters to be submitted to him. (Feb. 21, 1933, ch. 110, sec. 55 [176r, 176u], 47 Stat. 889.)

350. **Challenge for implied bias.**—A challenge for implied bias may be taken for all or any of the following causes, and for no other:

a. Consanguinity or affinity within the fourth degree to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or to the defendant;

b. Standing in the relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged or on whose complaint the prosecution was instituted, or in his employment on wages;

c. Being a party adverse to the defendant in a civil action, or having complained against or been accused by him in a criminal prosecution;

d. Having served on a trial jury which has tried another person for the offense charged;

e. Having been one of a jury formerly sworn to try the same charge, and whose verdict was set aside, or which was discharged without a verdict after the case was submitted to it;

f. Having served as a juror in a civil action brought against the defendant for the act charged as an offense; and

g. If the offense charged be punishable with death, the entertaining of such conscientious opinions as would preclude his finding the defendant guilty; in which case he must neither be permitted nor compelled to serve as a juror. (Feb. 21, 1933, ch. 110, sec. 55 [176s], 47 Stat. 890.)

351. **Exemption from service as cause of challenge.**—An exemption from service on a jury is not a cause of challenge, but the privilege of the person exempted. (Feb. 21, 1933, ch. 110, sec. 55 [176t], 47 Stat. 890.)

352. **Stating causes of challenge.**—In a challenge for implied bias, one or more of the causes stated in section 350 of this title must be alleged. In a challenge for actual bias, the cause stated in paragraph b of section 349 of this title must be alleged. The challenge

may be oral, but must be entered in the minutes of the court or of the reporter. (Feb. 21, 1933, ch. 110, sec. 55 [176u], 47 Stat. 890.)

353. **Exception to or denial of challenge.**—The adverse party may except to the challenge in the same manner as to a challenge to the panel, and the same proceedings must be had thereon as are prescribed in section 337 of this title, except that if the exception be allowed the juror must be excluded. The adverse party may also orally deny the facts alleged as the ground of challenge. (Feb. 21, 1933, ch. 110, sec. 55 [176v], 47 Stat. 890.)

354. **Trial of challenge.**—If the facts are denied the challenge must be tried by the court. (Feb. 21, 1933, ch. 110, sec. 55 [176w], 47 Stat. 890.)

355. **Examination of juror challenged.**—Upon the trial of a challenge to an individual juror, the juror challenged may be examined as a witness to prove or disprove the challenge and must answer every question pertinent to the inquiry. (Feb. 21, 1933, ch. 110, sec. 55 [176x], 47 Stat. 890.)

356. **Examining other witnesses.**—Other witnesses may also be examined on either side, and the rules of evidence applicable to the trial of other issues govern the admission or exclusion of evidence on the trial of the challenge. (Feb. 21, 1933, ch. 110, sec. 55 [176y], 47 Stat. 890.)

357. **Allowance or disallowance of challenge.**—The court must allow or disallow the challenge, and its decision must be entered in the minutes of the court. (Feb. 21, 1933, ch. 110, sec. 55 [176z], 47 Stat. 890.)

ARTICLE 2.—THE TRIAL

Sec.
361. Order of trial.
362. Exclusion or separation of witnesses.
363. Presumption of innocence; reasonable doubt.
364. Reasonable doubt as to degree of offense committed.
365. Trial of defendants jointly charged.
366. Discharging one of defendants to be Government witness.
367. Discharging one of defendants to be defense witness.
368. Such discharges as bar to another prosecution.
369. Rules of evidence in general.
370. Direct examination; cross-examination.
371. Impeachment and contradiction of own witness.
372. Impeachment of opposing witness in general.
373. Impeachment by showing prior inconsistent statements.
374. Manifestations and presumptions as to intent.
375. Proof of intent to defraud.
376. Corroboration of woman upon a trial for abortion or seduction.

Sec.
377. Proof upon trial for bigamy.
378. Proof of overt act on trial for conspiracy.
379. Proof of false pretenses.
380. Proof of forgery of bank bill or note.
381. Proof upon trial for larceny or embezzlement of money or securities.
382. Proof upon trial for violation of lottery laws.
383. Proof of murder or manslaughter.
384. Burden of establishing mitigation or justification upon trial for murder.
385. Proof of perjury in general.
386. Use of person's testimony as witness in his prosecution for perjury.
387. Corroboration of testimony of accomplice.
388. Discharge of defendant for lack of jurisdiction or failure to charge offense.
389. View of premises by jury.
390. Number of counsel who may argue cause.
391. Holding defendant in custody after appearance for trial.
392. Costs in the district court.

361. **Order of trial.**—The trial shall be conducted in the following order unless otherwise directed by the court:

a. The district attorney or other counsel for the Government must open the cause and offer the evidence in support of the charge;

b. The defendant or his counsel may then open the defense and offer his evidence in support thereof;

c. The parties may then respectively offer rebutting testimony only, unless the court for good reason in furtherance of justice permits them to offer evidence upon their original case; and

d. When the evidence is concluded unless the case is submitted on either side or on both sides without argument, the district attorney or other counsel for the Government and counsel for the defendant may argue the case; the district attorney or other counsel for the Government opening the argument and having the right to close. (Feb. 21, 1933, ch. 110, sec. 56 [177, subd. 3], 47 Stat. 890.)

Cross-References

Establishment and jurisdiction of district court, see title 7, sections 21 to 26.
Mode of trial, see sections 301 to 304 of this title.
Trial of accessories, see sections 211 and 212 of this title.

362. Exclusion or separation of witnesses.—While a witness is under examination the court may exclude all witnesses who have not been examined. It may also cause the witnesses to be kept separate and to be prevented from conversing with each other until they are examined.

363. Presumption of innocence; reasonable doubt.—A defendant in a criminal action is presumed to be innocent until the contrary is proved and in case of a reasonable doubt as to his guilt is entitled to an acquittal.

364. Reasonable doubt as to degree of offense committed.—When it appears that the defendant has committed a public offense, and there is reasonable ground of doubt in which of two or more degrees he is guilty, he can be convicted of the lowest of such degrees only.

365. Trial of defendants jointly charged.—When two or more defendants are jointly charged with a felony, any defendant requiring it must be tried separately. In other cases the defendants jointly charged may be tried separately or jointly, in the discretion of the court.

Cross-Reference

Joinder in challenges to jury by defendants tried together, see section 332 of this title.

366. Discharging one of defendants to be Government witness.—When two or more persons are included in the same charge, the court may, at any time before the defendants have adduced testimony in defense, on the application of the district attorney, direct any defendant to be discharged, that he may be a witness for the Government.

367. Discharging one of defendants to be defense witness.—When two or more persons are included in the same information, and the court is of opinion that in regard to a particular defendant there is not sufficient evidence to put him on his defense, it must order him to be discharged before the evidence for the defense is closed, that he may be a witness for his codefendant.

368. Such discharges as bar to another prosecution.—The order mentioned in the two next preceding sections is an acquittal of the defendant discharged and a bar to another prosecution for the same offense.

369. Rules of evidence in general.—The rules of evidence in civil actions are applicable also to criminal actions, except as otherwise provided in this title. (Feb. 21, 1933, ch. 110, sec. 57 [184a], 47 Stat. 891.)

Cross-References

Competency of witnesses, see sections 671 to 673 of this title.
Rules of evidence in civil actions, see title 4, sections 1841 et seq.

370. Direct examination; cross-examination.—The examination of a witness by the party producing him is denominated the direct examination; the examination of the same witness upon the same matter by the adverse party, the cross-examination.

371. Impeachment and contradiction of own witness.—The party producing a witness is not allowed to impeach his credit by evidence of bad character; but he may contradict him by other evidence and show that he has at other times made statements inconsistent with his testimony given in the trial.

372. Impeachment of opposing witness in general.—A witness may be impeached by the party against whom he is called, by contradictory evidence, or by evidence that his general reputation for truth, honesty or integrity is bad, but not by evidence of particular wrongful acts, except that it may be shown by the examination of the witness, or the record of the judgment, that he has been convicted of a felony.

373. Impeachment by showing prior inconsistent statements.—A witness may also be impeached by evidence that he has made at other times statements inconsistent with his testimony given on the trial; but before this can be done the statements must be related to him with the circumstances of time, places and persons present, and he must be asked whether he made such statements, and if so, allowed to explain them. If the statements are in writing they must be shown to the witness before any question is put to him concerning them.

374. Manifestations and presumptions as to intent.—The intent or intention is manifested by the circumstances connected with the offense and the sound mind and discretion of the accused. All persons are of sound mind who are neither idiots, nor lunatics, nor affected with insanity. A malicious and guilty intention is presumed from the manner and deliberation with which an unlawful act is intended or committed for the purpose of injuring another.

375. Proof of intent to defraud.—Whenever by any of the provisions of Title 5, The Criminal Code, an intent to defraud is required in order to constitute any offense, it is sufficient if an intent appears to defraud any person, association, or body politic or corporate, whatever.

376. Corroboration of woman upon a trial for abortion or seduction.—Upon a trial for procuring or attempting to procure an abortion, or aiding or assisting therein, or for inveigling, enticing or taking away an unmarried female of previous chaste character, under the age of twenty-one years, for the purpose of prostitution, or aiding or assisting therein, the defendant cannot be convicted upon the testimony of the woman upon or with whom the offense was committed, unless she is corroborated by other evidence.

377. **Proof upon trial for bigamy.**—Upon a trial for bigamy it is not necessary to prove either of the marriages by the register, certificate or other record evidence thereof, but the same may be proved by such evidence as is admissible to prove a marriage; nor when and where the second marriage took place, proof of the fact, accompanied with proof of cohabitation thereafter in the Canal Zone, being sufficient to sustain the charge.

CROSS-REFERENCE

Proof of marriages in general, see title 3, section 52.

378. **Proof of overt act on trial for conspiracy.**—Upon a trial for conspiracy, in a case where an overt act is necessary to constitute the offense, the defendant cannot be convicted unless one or more overt acts are expressly alleged in the information, nor unless one of the acts alleged is proved; but other overt acts not alleged, but connected with the offense charged, may be given in evidence.

CROSS-REFERENCE

Overt act as element of the offense, see title 5, section 82.

379. **Proof of false pretenses.**—Upon any trial for having, with an intent to cheat or defraud another designedly, by any false pretense, obtained the signature of any person to a written instrument, or having obtained from any person money, personal property or valuable thing, the defendant cannot be convicted if the false pretense was expressed in language unaccompanied by a false token or writing, unless the pretense, or some note or memorandum thereof, be in writing, subscribed by, or in the handwriting of the defendant, or unless the pretense be proven by the testimony of two witnesses, or that of one witness and corroborating circumstances; but this section shall not apply to a prosecution for falsely representing or personating another, and, in such assumed character, marrying or receiving any money or property.

380. **Proof of forgery of bank bill or note.**—Upon a trial for forging any bill or note purporting to be the bill or note of an incorporated company or bank, or for passing, or attempting to pass, or having in possession with intent to pass, any such forged bill or note, it is not necessary to prove the incorporation of such bank or company by the charter or act of incorporation, but it may be proved by general reputation; and persons of skill are competent witnesses to prove that such bill or note is forged or counterfeited.

381. **Proof upon trial for larceny or embezzlement of money or securities.**—Upon a trial for larceny or embezzlement of money, bank notes, certificates of stock or valuable securities, the allegation

of the information, so far as regards the description of the property, is sustained if the offender is proved to have embezzled or stolen any money, bank notes, certificates of stock or valuable security, although the particular species of coin or other money, or the number, denomination or kind of bank notes, certificates of stock or valuable security is not proved; and upon a trial for embezzlement, if the offender is proved to have embezzled any piece of coin or other money, any bank note, certificate of stock or valuable security, although such piece of coin or other money, or such bank note, certificate of stock or valuable security, may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly.

382. **Proof upon trial for violation of lottery laws.**—Upon a trial for the violation of any of the provisions of Title 5, The Criminal Code, or other law for the suppression of lotteries, it is not necessary to prove:

a. The existence of any lottery in which any lottery ticket purports to have been issued;

b. The actual signing of any such ticket or share of any pretended lottery; or

c. That any lottery ticket, share or interest was signed or issued by the authority of any manager or person assuming to have authority as manager;

But in all cases proof of the sale, furnishing, bartering or procuring of any ticket, share or interest therein, or of any instrument purporting to be a ticket, or part or share of any such ticket, is evidence that such share or interest was signed and issued according to the purport thereof.

383. **Proof of murder or manslaughter.**—No person can be convicted of murder or manslaughter unless the death of the person alleged to have been killed, and the fact of the killing by the defendant as alleged, are established as independent facts; the former by direct proof and the latter beyond a reasonable doubt.

384. **Burden of establishing mitigation or justification upon trial for murder.**—Upon a trial for murder, the commission of the homicide by the defendant being proved, the burden of proving circumstances of mitigation, or that justify or excuse it, devolves upon him, unless the proof on the part of the prosecution tends to show that the crime committed only amounts to manslaughter or that the act of the defendant, of which complaint is made, was justifiable or excusable.

CROSS-REFERENCE

Justifiable and excusable homicide, see title 5, sections 259 to 263.

385. **Proof of perjury in general.**—Perjury must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances. (Feb. 21, 1933, ch. 110, sec. 58 [184b], 47 Stat. 891.)

386. **Use of person's testimony as witness in his prosecution for perjury.**—The various sections of this title and of Title 5, The Criminal Code, which declare that evidence obtained upon the exami-

nation of a person as a witness can not be received against him in any criminal proceeding, do not forbid such evidence being proved against such person upon any proceedings founded upon a charge of perjury committed in such examination.

387. **Corroboration of testimony of accomplice.**—A conviction cannot be had on the testimony of an accomplice unless he is corroborated by other evidence which in itself and without the aid of the testimony of the accomplice, tends to connect the defendant with the commission of the offense; and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.

CROSS-REFERENCE

Corroboration of woman upon a trial for abortion or seduction, see section 376 of this title.

388. **Discharge of defendant for lack of jurisdiction or failure to charge offense.**—The court may direct the defendant or defendants to be discharged, where it appears that it has not jurisdiction of the offense, or that the facts charged do not constitute an offense punishable by law; unless in its opinion a new information can be framed, upon which the defendant can be legally convicted, in which case it may direct the district attorney to file a new information or institute such other proceedings as are required by law.

389. **View of premises by jury.**—When, in the opinion of the court, it is proper that the jury should view the place in which the offense is charged to have been committed, or in which any other material fact occurred, it may order the jury to be conducted in a body, in the custody of the marshal, to the place, which must be shown to them by a person appointed by the court for that purpose; and the marshal must be sworn to suffer no person to speak or communicate with the jury, nor to do so himself, on any subject connected with the trial, and to return them into court without unnecessary delay or at a specified time. (Feb. 21, 1933, ch. 110, sec. 59 [199], 47 Stat. 891.)

390. **Number of counsel who may argue cause.**—If the information is for an offense punishable with death two counsel on each side may argue the cause. If it is for any other offense the court may in its discretion restrict the argument to one counsel on each side.

391. **Holding defendant in custody after appearance for trial.**—When a defendant who has given bail appears for trial, the court may, in its discretion, at any time after his appearance for trial, order him to be committed to the custody of the warden of the jail, to abide the judgment or further order of the court, and he must be committed and held in custody accordingly.

392. **Costs in the district court.**—The costs in criminal cases shall be paid by the defendant in cases of appeal from a magistrate's court if the appeal is not prosecuted or if the appeal is prosecuted and the judgment of the magistrate is affirmed, and shall be paid in cases other than appeals from the magistrates' courts when a judgment of guilty is entered. Such costs shall be taxed as follows:

a. Fees for witnesses produced by the Government or the defense, $1 per day and 10 cents per mile going to and returning from court for all distances over three miles;

b. For a deposition of a witness for the defendant, $1;

c. For issuing a warrant of arrest, 25 cents;

d. For every adjournment of a trial on motion of the defendant, $2;

e. For filing each paper required by law or pleading, 5 cents;

f. For furnishing copies to the defendant of all pleadings except the information, 15 cents per folio;

g. For swearing each witness on trial, 10 cents;

h. For a subpena, including all the names contained therein, 25 cents, and in no case can more than six subpenas be allowed for;

i. For receiving and entering a judgment, 25 cents;

j. For warrant of commitment on sentence, 75 cents;

k. For record of conviction and filing the same, 75 cents; and

l. For a return of any writ of certiorari, 25 cents.

ARTICLE 3.—THE VERDICT

Sec.
401. Concurrence of all jurors.
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406. Forms of general verdict.
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408. Manner of rendering special verdict.
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411. Ordering new trial where special verdict defective.
412. Necessity that verdict find degree of crime.
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413. Finding on charge of previous conviction of another offense.
414. Authority to find defendant guilty of included offense or of attempt.
415. Verdict as to some defendants and retrial of others.
416. Directing reconsideration of verdict.
417. Giving judgment upon informal verdict.
418. Polling the jury.
419. Recording the verdict.
420. Discharge or detention of defendant after acquittal.

401. Concurrence of all jurors.—All the jurors must concur to render a verdict. (Feb. 21, 1933, ch. 110, sec. 75 [209b], 47 Stat. 893.)

CROSS-REFERENCE

Number of jurors, see section 303 of this title.

402. Return of verdict in general.—When the jury have agreed upon their verdict they must be conducted into court by the officer having them in charge. When the jury appear they must be asked by the court, or clerk, whether they have agreed upon their verdict, and if the foreman answers in the affirmative, they must, on being required, declare the same. (Feb. 21, 1933, ch. 110, sec. 60 [202a], 47 Stat. 891.)

403. Directing return under signature and seal.—The court may, without regard to the consent or objection of parties, direct the jury, in case they should agree, to sign the verdict, place it in an envelope, and return it into open court, or may direct the marshal to permit the jury, upon agreement, to sign and seal their verdict and return it into open court the following morning, or, upon the jury's coming into court to report agreement, counsel being absent, may instruct the jury to seal their verdict and return it into court on the following day. (Feb. 21, 1933, ch. 110, sec. 74 [209a], 47 Stat. 893.)

404. Presence of defendant at return of verdict.—In all cases of felony the defendant must be present in court when the verdict is announced. If the trial is for a misdemeanor, the verdict may be rendered by the court in the absence of the defendant.

CROSS-REFERENCE

Presence at trial, see section 304 of this title.

405. General or special verdicts authorized.—The jury may render a general verdict, or, when they are in doubt as to the legal effects of the facts proved, they may, except upon a trial for libel, find a special verdict. (Feb. 21, 1933, ch. 110, sec. 61 [202 b], 47 Stat. 891.)

406. Forms of general verdict.—A general verdict upon a plea of not guilty is either " guilty " or " not guilty," which imports a conviction or acquittal of the offense charged in the information. Upon a plea of a former conviction or acquittal of the same offense, it is either " for the Government " or " for the defendant." When the defendant is acquitted on the ground that he was insane at the time of the commission of the act charged, the verdict must be " not guilty by reason of insanity."

407. Special verdict defined.—A special verdict is that by which the jury find the facts only, leaving the judgment to the court. It must present the conclusions of fact as established by the evidence, and not the evidence to prove them, and these conclusions of fact must be so presented that nothing remains to the court but to draw conclusions of law upon them. (Feb. 21, 1933, ch. 110, sec. 62 [202 c], 47 Stat. 891.)

408. Manner of rendering special verdict.—The special verdict must be reduced to writing by the jury, or in their presence entered upon the minutes of the court, read to the jury and agreed to by them, before they are discharged. (Feb. 21, 1933, ch. 110, sec. 63 [202 d], 47 Stat. 891.)

409. Form of special verdict.—The special verdict need not be in any particular form, but is sufficient if it presents intelligibly the facts found by the jury. (Feb. 21, 1933, ch. 110, sec. 64 [202 e], 47 Stat. 891.)

410. Judgment on special verdict.—The court must give judgment upon the special verdict as follows:

a. If the plea is not guilty, and the facts prove the defendant guilty of the offense charged in the information, or of any other offense of which he could be convicted under that information, judgment must be given accordingly. But if otherwise, judgment of acquittal must be given; and

b. If the plea is a former conviction or acquittal of the same offense, the court must give judgment of acquittal or conviction, as the facts prove or fail to prove the former conviction or acquittal. (Feb. 21, 1933, ch. 110, sec. 65 [202 f], 47 Stat. 891.)

411. Ordering new trial where special verdict defective.—If the jury do not, in a special verdict, pronounce affirmatively or negatively on the facts necessary to enable the court to give judgment, or if they find the evidence of facts merely, and not the conclusions of fact, from the evidence, as established to their satisfaction, the court must order a new trial. (Feb. 21, 1933, ch. 110, sec. 66 [202 g], 47 Stat. 892.)

412. Necessity that verdict find degree of crime.—Whenever a crime is distinguished into degrees a verdict of conviction must find the degree of the crime of which the defendant is guilty.

CROSS-REFERENCE

Determination of degree by court upon plea of guilty, see section 485 of this title.

413. Finding on charge of previous conviction of another offense.—Whenever the fact of a previous conviction of another offense is charged in an information, the court or jury, if it finds a verdict of guilty of the offense with which he is charged, must also, unless the answer of the defendant admits the charge, find whether or not he has suffered such previous conviction. The verdict of the court or jury upon a charge of a previous conviction may be: "The charge of previous conviction is true," or "The charge of previous conviction is not true." (Feb. 21, 1933, ch. 110, sec. 71 [206], 47 Stat. 893.)

414. Authority to find defendant guilty of included offense or of attempt.—The court or jury may find the defendant guilty of any offense, the commission of which is necessarily included in that with which he is charged, or of an attempt to commit the offense. (Feb. 21, 1933, ch. 110, sec. 72 [207], 47 Stat. 893.)

415. Verdict as to some defendants and retrial of others.—On an information against several, if the court or jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment must be entered accordingly, and the case as to the others may be retried. (Feb. 21, 1933, ch. 110, sec. 73 [208], 47 Stat. 893.)

416. Directing reconsideration of verdict.—When there is a verdict of conviction, in which it appears to the court that the jury have mistaken the law, the court may explain the reason for that opinion and direct the jury to reconsider their verdict, and if, after the reconsideration, they return the same verdict, it must be entered; but when there is a verdict of acquittal, the court cannot require the jury to reconsider it. If the jury render a verdict which is neither general nor special, the court may direct them to reconsider it, and it cannot be recorded until it is rendered in some form from which it can be clearly understood that the intent of the jury is either to render a general verdict or to find the facts specially and to leave the judgment to the court. (Feb. 21, 1933, ch. 110, sec. 67 [202h], 47 Stat. 892.)

417. Giving judgment upon informal verdict—If the jury persist in finding an informal verdict, from which, however, it can be clearly understood that their intention is to find in favor of the defendant upon the issue, it must be entered in the terms in which it is found, and the court must give judgment of acquittal. But no judgment of conviction can be given unless the jury expressly find against the defendant upon the issue, or judgment is given against him on a special verdict. (Feb. 21, 1933, ch. 110, sec. 68 [202i], 47 Stat. 892.)

418. Polling the jury.—When a verdict is rendered and before it is recorded, the jury may be polled at the request of either party in which case they must be severally asked whether it is their verdict, and if anyone answers in the negative, the jury must be sent out for further deliberation. (Feb. 21, 1933, ch. 110, sec. 69 [202j], 47 Stat. 892.)

419. Recording the verdict.—When the verdict given is such as the court may receive, the clerk must immediately record it in full upon the minutes, read it to the jury, and inquire of them whether it is their verdict. If any juror disagree, the fact must be entered upon the minutes and the jury again sent out; but if no disagreement is expressed, the verdict is complete, and the jury must be discharged from the case. (Feb. 21, 1933, ch. 110, sec. 70 [202k], 47 Stat. 892.)

420. Discharge or detention of defendant after acquittal.—If judgment of acquittal is given on a general verdict, and the defendant is not detained for any other legal cause, he must be discharged as soon as the judgment is given, except where the acquittal is because of a variance between the pleading and proof, which may be obviated by a new information. The court may order his detention, to the end that a new information may be preferred in the same manner and with like effect as provided by law.

Cross-Reference

Discharge or detention after arrest of judgment, see section 464 of this title.

ARTICLE 4.—EXCEPTIONS

Sec.
431. Exception defined.
432. Time of taking exception.
433. Certain rulings not subject to exception.
434. Matters deemed to have been excepted to.

431. Exception defined.—An exception is an objection upon a matter of law to a decision made by a court, tribunal, judge or other judicial officer in an action or proceeding. (Feb. 21, 1933, ch. 110, sec. 76 [210], 47 Stat. 893.)

432. Time of taking exception.—Except as provided in section 434 of this title, the exception must be taken at the time the decision is made. (Feb. 21, 1933, ch. 110, sec. 76 [210], 47 Stat. 893.)

433. Certain rulings not subject to exception.—Rulings of the court upon minor discretionary matters, such as adjournments, postponements of trials and the like, shall not be subject to exception. (Feb. 21, 1933, ch. 110, sec. 76 [210], 47 Stat. 893.)

434. Matters deemed to have been excepted to.—The verdict of the jury, the final decision in an action or proceeding, an interlocutory order or decision finally determining the rights of the parties or some of them, an order or decision from which an appeal may be taken, an order sustaining or overruling a demurrer, granting or refusing a motion to set aside an information, a motion in arrest of judgment, a motion for a new trial, making or refusing to make an order after judgment affecting any substantial rights of the parties, refusing to grant a change of the place of trial, allowing or refusing to allow an amendment to a pleading, striking out a pleading or a portion thereof, an order made upon ex parte application, an order or decision made in the absence of a party, and instructions given or refused, are deemed to have been excepted to. (Feb. 21, 1933, ch. 110, sec. 77 [212], 47 Stat. 893.)

ARTICLE 5.—BILL OF EXCEPTIONS

Sec.
441. Contents of bill of exceptions.
442. Insertion of entire charge to jury forbidden.
443. Settling bill of exceptions.

441. Contents of bill of exceptions.—A bill of exceptions must contain only so much of the evidence as may be necessary to present clearly the questions of law involved in the rulings to which exceptions are reserved, and such evidence as is embraced therein shall be set forth in condensed and narrative form, save as a proper understanding of the questions presented may require that parts of it be set forth otherwise. (Feb. 21, 1933, ch. 110, sec. 79 [215], 47 Stat. 894.)

Cross-Reference

For provisions authorizing the Supreme Court to prescribe the manner of preparing bills of exceptions, see U.S. Code title 28, section 723a (appendix, p. 983).

442. Insertion of entire charge to jury forbidden.—No bill of exceptions shall be allowed which shall contain the charge of the court at large to the jury, upon any general exception to the whole of such charge. But the party excepting shall be required to state distinctly the several matters of law in such charge to which he excepts; and those matters of law, and those only, shall be inserted in the bill of exceptions and allowed by the court. (Feb. 21, 1933, ch. 110, sec. 80 [215a], 47 Stat. 894.)

443. Settling bill of exceptions.—Where a party desires to have the exceptions settled in a bill of exceptions, the draft of a bill must be prepared by him and presented, upon notice of at least two days to the adverse party, to the judge for settlement within ten days after the announcement of the verdict, unless further time is granted by the judge, or within that period the draft must be delivered to the clerk of the court for the judge. When received by the clerk, he must deliver it to the judge, or transmit it to him at the earliest time practicable. When settled, the bill must be signed by the judge and filed with the clerk of the court. If the judge in any case refuses to allow an exception in accordance with the facts, the party desiring the bill settled may apply by petition to the United States Circuit Court of Appeals for the Fifth Circuit to prove the same. The application may be made in the mode and manner and under such regulations as that court may prescribe; and the bill, when proven, must be certified by the court as correct, and filed with the clerk of the court in which the action was tried, and when so filed, it has the same force and effect as if settled by the judge who tried the cause. If the judge who presided at the trial ceases to hold office before the bill is tendered or settled, he may nevertheless settle such bill, or the party may, as provided in this section, apply to the Circuit Court of Appeals to prove the same. (Feb. 21, 1933, ch. 110, sec. 78 [214], 47 Stat. 894.)

ARTICLE 6.—NEW TRIALS

Sec.
451. New trial defined.
452. Grounds for new trial.
453. Time for making and filing motion for new trial.
454. Motion in writing; specification of grounds.
455. Hearing and determination of motion.
456. Effect of granting new trial.

451. New trial defined.—A new trial is a reexamination of the issue in the same court after a verdict has been given.

CROSS-REFERENCE

For provisions authorizing the Supreme Court to regulate proceedings after verdict in criminal cases, see U.S. Code, title 28, section 723a (appendix, p. 983).

452. Grounds for new trial.—When a verdict has been rendered against the defendant, the court may, upon his application, grant a new trial in the following cases only:

a. When the trial has been had in his absence and the information is for a felony;

b. When evidence has been received out of court other than that resulting from a view of the premises;

c. When the court or any member thereof has been guilty of any misconduct by which a fair and due consideration of the case has been prevented;

d. When the verdict has been decided by lot, or by any means other than by a fair expression of opinion;

e. When the court has erred in the decision of any question of law arising during the course of the trial;

f. When the verdict is contrary to law or evidence; and

g. When new evidence is discovered material to the defendant and which he could not with reasonable diligence have discovered and produced at the trial. When a motion for a new trial is made upon the ground of newly discovered evidence, the defendant must produce at the hearing in support thereof the affidavit of the witnesses by whom such evidence is expected to be given, and if time is required by the defendant to procure such affidavits, the court may postpone the hearing of the motion for such length of time as, under all the circumstances of the case, may seem reasonable.

453. Time for making and filing motion for new trial.—A motion for a new trial shall be made only after verdict of the jury or decision by the court, and before judgment. The motion shall be filed within five days after verdict of the jury or decision by the court, unless for good cause shown the court or judge, within the five-day period, extends the time. (Feb. 21, 1933, ch. 110, sec. 81 [219], 47 Stat. 894.)

454. Motion in writing; specification of grounds.—A motion for a new trial shall be in writing and must set out specifically the grounds upon which it is made. When a ground of the motion is the insufficiency of the evidence to justify the verdict or decision, the motion must specify the particulars in which the evidence is alleged to be insufficient. When a ground of the motion is error in law occurring at the trial and excepted to by the moving party, the motion must specify the particular errors upon which the party will rely, and in the case of a question as to the admissibility of evidence the question, objection or motion, ruling, and exception thereto must be fully set out. (Feb. 21, 1933, ch. 110, sec. 81 [219], 47 Stat. 894.)

455. Hearing and determination of motion.—A motion for new trial shall be heard and determined as speedily as possible after the same is filed. (Feb. 21, 1933, ch. 110, sec. 81 [219], 47 Stat. 894.)

456. Effect of granting new trial.—The granting of a new trial places the parties in the same position as if no trial had been had. All the testimony must be produced anew, and the former verdict cannot be used or referred to either in evidence or in argument, or be pleaded in bar of any conviction which might have been had under the information.

ARTICLE 7.—ARREST OF JUDGMENT

Sec.
461. Motion in arrest of judgment.
462. Arrest of judgment by court on own motion.
463. Effect of allowing motion in arrest of judgment.

Sec.
464. Discharge or holding of defendant upon arrest of judgment.

461. Motion in arrest of judgment.—A motion in arrest of judgment is an application on the part of the defendant that no judgment be rendered on a plea or verdict of guilty, or on a verdict against the defendant on a plea of a former conviction or acquittal. It may be founded on any of the defects in the information unless the objection has been waived by a failure to demur, and must be made before or at the time the defendant is called for judgment.

CROSS-REFERENCE

For provisions authorizing the Supreme Court to regulate proceedings after verdict, see U.S. Code, title 28, section 723a (appendix, p. 983).

462. Arrest of judgment by court on own motion.—The court may also, on its own view of any of these defects, arrest the judgment without motion.

463. Effect of allowing motion in arrest of judgment.—The effect of allowing a motion in arrest of judgment is to place the defendant in the same situation in which he was before the information was filed.

464. Discharge or holding of defendant upon arrest of judgment.—If from the evidence on the trial there is reason to believe the defendant guilty, and a new information can be framed upon which he may be convicted, the court may order him to be recommitted to the officer of the proper division, or admitted to bail anew to answer the new information. If the evidence shows him guilty of another offense, he must be committed or held thereon, and in neither case shall the verdict be a bar to another prosecution. But if no evidence appears sufficient to charge him with any offense, he must if in custody be discharged; or if admitted to bail, the bail is exonerated; or if money has been deposited instead of bail, it must be refunded to the defendant; and the arrest of judgment shall operate as an acquittal of the charge upon which the information was founded.

CHAPTER 14.—JUDGMENT

Sec.
481. Time for pronouncing judgment.
482. Duty of court or magistrate to determine and impose punishment.
483. Determination of punishment by court or magistrate where undetermined between limits.
484. Determination by court where minimum punishment only is prescribed.
485. Determination by court of degree of crime upon plea of guilty.
486. Presence of defendant.
487. Bringing defendant before court when in custody.
488. Bringing defendant before court when on bail; bench warrant.
489. Issuance of bench warrant at any time after order.
490. Form of bench warrant.
491. Service of bench warrant.
492. Arraignment of defendant for judgment.
493. Pronouncement of judgment.
494. Hearing circumstances in aggravation or mitigation of punishment.
495. Presentation of such circumstances.
496. Mitigation when act already punished as contempt.
497. Judgment for imprisonment for nonpayment of fine and costs.
498. Sentence to imprisonment at hard labor for felony.
499. Entry of judgment.
500. Suspension of sentence by district and magistrates' courts; probation.
501. Requiring defendant on probation to pay fine, make restitution, and support dependents.

Cross-Reference

Inquiry into defendant's sanity after conviction, see sections 811 to 816 of this title.

Section 481. Time for pronouncing judgment.—After a plea or verdict of guilty, or after a verdict against the defendant on the plea of a former conviction or acquittal, if the judgment be not arrested or a new trial granted, the court must appoint a time for pronouncing judgment, which in cases of felony must be at least two days after the verdict if the court intend to remain in session so long; but if not, then at as remote a time as can reasonably be allowed.

Cross-Reference

For provisions authorizing the Supreme Court to regulate proceedings after verdict, see U.S. Code, title 28, section 723a (appendix, p. 983).

482. **Duty of court or magistrate to determine and impose punishment.**—The several sections of Title 5, The Criminal Code, which declare certain crimes to be punishable as therein mentioned, devolve a duty upon the court or magistrate authorized to pass sentence, to determine and impose the punishment prescribed.

483. **Determination of punishment by court or magistrate where undetermined between limits.**—Whenever in Title 5, The Criminal Code, the punishment for a crime is left undetermined between certain limits, the punishment to be inflicted in a particular case must be determined by the court or magistrate authorized to pass sentence, within such limits as may be prescribed by the Criminal Code.

484. **Determination by court where minimum punishment only is prescribed.**—When a person is declared punishable for a crime by imprisonment in the penitentiary for a term not less than any specified number of years, and no limit to the duration of such imprisonment is declared, the court authorized to pronounce judgment upon such conviction may, in its discretion, sentence the offender to imprisonment for any number of years not less than that prescribed. (Feb. 21, 1933, ch. 109, sec. 10 [29], 47 Stat. 860.)

485. **Determination by court of degree of crime upon plea of guilty.**—Upon a plea of guilty of a crime distinguished or divided into degrees, the court must, before passing sentence, determine the degree.

CROSS-REFERENCE

Necessity that verdict find degree of crime, see section 412 of this title.

486. **Presence of defendant.**—For the purpose of judgment, if the conviction is for a felony, the defendant must be personally present; if for a misdemeanor, judgment may be pronounced in his absence.

CROSS-REFERENCE

Presence of defendant at other stages of proceedings, see section 304 of this title and references thereunder.

487. **Bringing defendant before court when in custody.**—When the defendant is in custody, the court may direct the officer in whose custody he is to bring him before it for judgment, and the officer must do so.

488. **Bringing defendant before court when on bail; bench warrant.**—If the defendant has been released on bail or has deposited money instead thereof and does not appear for judgment when his personal appearance is necessary, the court in addition to the forfeiture of the undertaking of bail or of the money deposited, may direct the clerk to issue a bench warrant for his arrest.

489. **Issuance of bench warrant at any time after order.**—The clerk on the application of the district attorney may issue the bench warrant referred to in the next preceding section, at any time after the making of the order therein mentioned and whether the court is sitting or not.

490. **Form of bench warrant.**—The bench warrant must be substantially in the following form:

In the United States District Court for the District of the Canal Zone, Division of ______.

The Government of the Canal Zone to the Marshal or any Peace Officer of the Canal Zone:

That ______ having been on the ______ day of ______ A. D. ____, duly convicted, in the United States District Court for the District of the Canal Zone, of the crime of ________________, (designating it generally) you are therefore commanded forthwith to arrest the above named ________ and bring him before that court for judgment.

Given under my hand, with the seal of the court affixed, this ______ day of ______, A. D. ____.

By order of the Court.

[SEAL] Clerk of the Court.

491. Service of bench warrant.—The bench warrant may be served in the same manner as a warrant of arrest; and whether it is served in the division in which it was issued or in the other division, the officer must arrest the defendant and bring him before the court or commit him to the officer mentioned in the warrant, according to the command thereof.

492. Arraignment of defendant for judgment.—When the defendant appears for judgment he must be informed by the court, or by the clerk under its direction, of the nature of the charge against him and of his plea and the verdict, if any thereon, and must be asked whether he has any legal cause to show why judgment should not be pronounced against him.

493. Pronouncement of judgment.—If no sufficient cause is alleged or appears to the court why judgment should not be pronounced, it must thereupon be rendered.

CROSS-REFERENCE

Time for application for appeal, see U.S. Code, title 28, section 230 (appendix, p. 983); but see U.S. Code, title 28, section 723a (appendix, p. 983).

494. Hearing circumstances in aggravation or mitigation of punishment.—After a plea or verdict of guilty where a discretion is conferred upon the court as to the extent of the punishment, the court, upon the oral suggestion of either party that there are circumstances which may be properly taken into view either in aggravation or mitigation of the punishment may in its discretion hear the same summarily at a specified time and upon such notice to the adverse party as it may direct.

495. Presentation of such circumstances.—The circumstances must be presented by the testimony of witnesses examined in open court, except that when a witness is so sick or infirm as to be unable to attend, his deposition may be taken out of court upon such notice to the adverse party as the court may direct. No affidavit, testimony or representation of any kind verbal or written can be offered to or received by the court, or a judge thereof, in aggravation or mitigation of the punishment, except as provided in this and the next preceding section.

496. Mitigation when act already punished as contempt.—When it appears at the time of passing sentence upon a person convicted upon information, that the person has already paid a fine or suffered an imprisonment for the act of which he stands convicted, under an order adjudging it a contempt, the court authorized to pass sentence may mitigate the punishment to be imposed in its discretion.

CROSS-REFERENCE

Punishment for criminal act which is also a contempt, see title 5, section 29.

497. Judgment for imprisonment for nonpayment of fine and costs.—A judgment that the defendant pay a fine and costs may also direct that he be imprisoned until the fine and costs be satisfied. But the judgment must specify the extent of the imprisonment, which must not exceed one day for every dollar of the fine and costs, nor extend in any case beyond the term for which the defendant might be sentenced to imprisonment for the offense of which he has been convicted. (Feb. 21, 1933, ch. 110, sec. 82 [237], 47 Stat. 895.)

CROSS-REFERENCE

In magistrates' courts, see section 127 of this title.

498. Sentence to imprisonment at hard labor for felony.—In all cases of conviction of felony, the court sentencing any person convicted must attach to the sentence of imprisonment the provision that such imprisonment be at hard labor.

499. Entry of judgment.—When judgment is rendered upon a conviction the clerk must enter it in the minutes, stating briefly the offense for which the conviction was had and the fact of prior conviction, if any, and must within five days annex together and file the following papers which will constitute a record of the action:

a. The information and a copy of the minutes of the plea or demurrer;

b. A copy of the minutes of the trial;

c. The charges given or refused and the indorsements thereon; and

d. A copy of the judgment. (Feb. 21, 1933, ch. 110, sec. 84 [241], 47 Stat. 895.)

CROSS-REFERENCE

Necessity of applying for appeal within three months after entry of judgment, see U.S Code, title 28, section 230 (appendix, p. 983); but see U.S. Code, title 28, section 723a (appendix, p. 983).

500. Suspension of sentence by district and magistrates' courts; probation.—After a conviction of, or a plea of guilty to, any crime or offense not punishable by death or life imprisonment, the district or magistrate's court wherein the conviction was had or the plea of guilty entered, may, when it appears to the satisfaction of the court that the ends of justice and the best interests of the public, as well as the defendant, will be subserved thereby:

a. Suspend the imposition or execution of sentence and place the defendant upon probation upon such terms and conditions and for such period as the court deems best; except that the period of probation together with any extension thereof shall not exceed five years in the district court or one year in a magistrate's court; or

b. Impose a fine and also place the defendant upon probation in the manner aforesaid.

The court may revoke or modify any condition of probation or change the period thereof. (Feb. 21, 1933, ch. 109, sec. 8 [23a], 47 Stat. 859.)

501. Requiring defendant on probation to pay fine, make restitution and support dependents.—While on probation the defendant may be required:

a. To pay in one or several sums a fine imposed at the time of being placed on probation;

b. To make restitution or reparation to the aggrieved party for actual damages or loss caused by the offense for which conviction was had; and

c. To provide for the support of any person for whose support he is legally responsible. (Feb. 21, 1933, ch. 109, sec. 8 [23a], 47 Stat. 859.)

CHAPTER 15.—EXECUTION

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ARTICLE 1.—JUDGMENTS OTHER THAN DEATH

Sec.
511. Furnishing of mittimus to officer charged with executing judgment.
512. Issuing execution attaching property where judgment for fine and costs only.
513. Execution of judgment for imprisonment or for fine and costs.
514. Execution of judgment for imprisonment in penitentiary.
515. Execution of judgment for imprisonment in jail.
516. Consecutive running of sentences.
517. Commencement of term of imprisonment.
518. Temporary release not part of term of imprisonment.

Section 511. Furnishing of mittimus to officer charged with executing judgment.—When a judgment other than death has been pronounced, the clerk shall forthwith furnish a mittimus to the officer whose duty it is to execute the judgment, and no other warrant or authority is necessary to justify or require its execution. (Feb. 21, 1933, ch. 110, sec. 84a [242], 47 Stat. 895.)

512. Issuing execution attaching property where judgment for fine and costs only.—If the judgment is for a fine and costs alone, execution may be issued thereon attaching the property of the defendant. (Feb. 21, 1933, ch. 110, sec. 85 [243], 47 Stat. 895.)

513. Execution of judgment for imprisonment or for fine and costs.—If the judgment is for imprisonment, or a fine and costs and imprisonment until they are paid, the defendant must forthwith be committed to the custody of the proper officer and be detained by him until the judgment is complied with. (Feb. 21, 1933, ch. 110, sec. 86 [244], 47 Stat. 895.)

CROSS-REFERENCE

Penal institutions, see sections 901 to 905 of this title.

514. Execution of judgment for imprisonment in penitentiary.—If the judgment is for imprisonment in the penitentiary, the marshal must, upon receipt of a certified copy thereof, take and deliver the defendant to the warden of the penitentiary. He must also deliver to the warden the certified copy of the judgment, and take from the warden a receipt for the defendant.

515. Execution of judgment for imprisonment in jail.—A sentence of imprisonment in jail, when imposed either by the judge or a magistrate, may be executed by confinement in any jail of the Canal Zone. (Feb. 21, 1933, ch. 109, sec. 9 [26], 47 Stat. 860.)

516. Consecutive running of sentences.—When any person is convicted of two or more crimes, the imprisonment to which he is sentenced upon the second or other subsequent conviction must commence at the termination of the first term of imprisonment to which he shall be sentenced, or at the termination of the second or other subsequent term of imprisonment, as the case may be.

517. Commencement of term of imprisonment.—The term of imprisonment fixed by the judgment in a criminal action commences to run only upon the actual delivery of the defendant at the place of the imprisonment.

518. Temporary releases not part of term of imprisonment.—If during the term of imprisonment the defendant by any legal means is temporarily released from such imprisonment and subsequently returned thereto, the time during which he was at large must not be computed as part of the term.

ARTICLE 2.—JUDGMENTS OF DEATH

Sec.
521. Warrant for execution of judgment of death; time of execution.
522. Transmission of statement of conviction and testimony to Governor.
523. Suspension of execution of judgment.
524. Inquiry into sanity of defendant.
525. Duty of district attorney upon sanity hearing.
526. Signing and filing of certificate of inquisition.
527. Duty of warden upon the finding relative to sanity.
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528. Inquiry into supposed pregnancy of defendant.
529. Duty of warden upon finding of pregnancy or otherwise.
530. Ordering execution of judgment of death remaining in force unexecuted.
531. Mode of inflicting punishment of death.
532. Place of execution; persons present.
533. Return upon death warrant.

521. Warrant for execution of judgment of death; time of execution.—When judgment of death is rendered, a warrant signed by the judge and attested by the clerk, under the seal of the court, must be drawn and delivered to the marshal. It must state the conviction and judgment, and appoint a day on which the judgment is to be executed, which must not be less than six months nor more than one year from the time of judgment, and must direct the marshal to deliver the defendant, within ten days from the time of judgment, to the warden of the penitentiary, for execution.

522. Transmission of statement of conviction and testimony to Governor.—The judge of the court in which a conviction requiring judgment of death is had must immediately after the conviction transmit to the Governor of the Panama Canal, by mail or otherwise, a statement of the conviction and judgment and of the testimony given at the trial.

523. Suspension of execution of judgment.—No judge, court or officer other than the Governor can suspend the execution of a judgment of death unless an appeal is taken, except that the warden of the penitentiary to whom the defendant is delivered for execution may suspend the execution of the judgment in the manner provided in sections 524 to 529 of this title.

Cross-Reference

Reprieves in general, see title 2, section 261.

524. Inquiry into sanity of defendant.—If after judgment of death there is good reason to suppose that the defendant has become insane, the warden of the penitentiary to whom he is delivered for execution, with the concurrence of the court in which the conviction was had, may appoint a commission of medical experts to inquire into the supposed insanity, and must give immediate notice thereof to the district attorney.

CROSS-REFERENCE

Inquiry into insanity before trial or after conviction, see sections 811 to 816 of this title.

525. Duty of district attorney upon sanity hearing.—The district attorney must attend the inquisition, and may produce witnesses before the commission, for which purpose he may issue process in the same manner as for witnesses to attend a trial before the court, and disobedience thereto may be punished in like manner as disobedience to process issued by the court.

526. Signing and filing of certificate of inquisition.—A certificate of the inquisition must be signed by the members thereof, and filed with the clerk of the district court.

527. Duty of warden upon the finding relative to sanity.—If it is found by the inquisition that the defendant is sane, the warden must execute the judgment; but if it is found that he is insane, the warden must suspend the execution of the judgment until he receives a warrant from the Governor, or from the judge of the court wherein the judgment was rendered, directing the execution of the judgment. If the inquisition finds that the defendant is insane, the warden must immediately transmit it to the Governor, who may, when the defendant becomes sane, issue a warrant appointing a day for the execution of the judgment.

528. Inquiry into supposed pregnancy of defendant.—If there is good reason to suppose that a female against whom a judgment of death is rendered is pregnant, the warden of the penitentiary to whom she is delivered for execution, with the concurrence of the court in which the conviction was had, may summon a jury of three physicians to inquire into the supposed pregnancy. Immediate notice thereof must be given to the district attorney, and the provisions of sections 525 and 526 of this title shall apply to the proceedings upon the inquisition.

529. Duty of warden upon finding of pregnancy or otherwise.—If it is found by the inquisition that the female is not pregnant, the warden must execute the judgment; but if it is found that she is pregnant, the warden must suspend the execution of the judgment and transmit the inquisition to the Governor. When the Governor is satisfied that the female is no longer pregnant, he may issue his warrant appointing a day for the execution of the judgment.

530. Ordering execution of judgment of death remaining in force unexecuted.—If for any reason a judgment of death has not been executed, and it remains in force, the court in which the conviction is had, on the application of the district attorney, must order the defendant to be brought before it, or if he is at large, a warrant for apprehension may be issued. Upon the defendant being brought before the court, it must inquire into the facts, and if no legal reason exists against the execution of the judgment, must make an order that the warden of the penitentiary to whom the marshal is directed to deliver the defendant, shall execute the judgment at a specified time. The warden must execute the judgment accordingly.

531. Mode of inflicting punishment of death.—The punishment of death must be inflicted by hanging the defendant by the neck until he is dead.

532. Place of execution; persons present.—A judgment of death must be executed within the walls of the penitentiary. The warden of the penitentiary must be present at the execution, and must invite the presence of a physician, the district attorney, and at least twelve reputable residents of the Canal Zone, to be selected by him; and he shall, at the request of the defendant, permit such ministers of the gospel, not exceeding two, as the defendant may name, and any persons, relatives or friends, not to exceed five, to be present at the execution, together with such peace officers as he may think expedient, to witness the execution. But no other persons than those mentioned in this section can be present at the execution, nor can any person under twenty-one years of age be allowed to witness the same.

533. Return upon death warrant.—After the execution, the warden must make a return upon the death warrant to the court by which the judgment was rendered, showing the time, mode and manner in which it was executed.

CHAPTER 16.—BAIL

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ARTICLE 1.—IN GENERAL

Sec.
541. Admission to bail defined.
542. Taking of bail defined; excessive bail.
543. Offense not bailable.
544. Other offenses bailable before conviction.
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547. Notice to district attorney when bail discretionary.
548. Admission to bail in subdivision other than that in which warrant issued.
549. Proceedings on taking bail in such cases.
550. Procedure where such bail not forthwith given.

Section 541. Admission to bail defined.—Admission to bail is the order by a judge of a competent court that the defendant be discharged from actual custody upon bail.

CROSS-REFERENCE

Bail defined, see title 3, section 2049.

542. Taking of bail defined; excessive bail.—The taking of bail consists in the acceptance by a competent court of the undertaking of sufficient bail for the appearance of the defendant, according to the terms of the undertaking, or that the bail will pay to the Government of the Canal Zone a specified sum. In no case shall excessive bail be required.

543. Offense not bailable.—A defendant charged with an offense punishable with death cannot be admitted to bail when the proof of his guilt is evident or the presumption thereof great. The filing of an information does not add to the strength of the proof or the presumptions to be drawn therefrom.

544. Other offenses bailable before conviction.—If the charge is for any other offense the defendant may be admitted to bail before conviction.

545. Right to bail upon appeal.—After conviction of an offense not punishable with death, a defendant who has appealed may be admitted to bail:

a. As a matter of right when the appeal is from a judgment imposing a fine only;

b. As a matter of right when the appeal is from a judgment imposing imprisonment in cases of misdemeanor; and

c. As a matter of discretion in all other cases. (Feb. 21, 1933, ch. 110, sec. 87 [289], 47 Stat. 895.)

CROSS-REFERENCES

Admission to bail on appeal, see sections 591 and 592 of this title.

For provisions authorizing the Supreme Court to prescribe the conditions on which bail may be allowed, see U.S. Code, title 28, section 723a (appendix, p. 983).

546. Time and terms of admission to bail.—If the offense is bailable the defendant may be admitted to bail before conviction—

a. For his appearance before a magistrate for trial or for preliminary hearing in cases triable in the district court;

b. To appear at the court to which the magistrate is required to return the complaint and warrant, upon the defendant being held to answer after preliminary hearing; or

c. After the information is filed either before the bench warrant is issued for his arrest, or upon any order of the court committing him, or enlarging the amount of bail, or upon his being surrendered by his bail to answer the information in the court in which it is found or to which it may be transferred for trial;

And after conviction and upon appeal—

d. If the appeal is from a judgment imposing a fine only, on the undertaking of bail that he will pay the same or such part of it as the appellate court may direct if the judgment is affirmed or modified or the appeal dismissed; or

e. If judgment of imprisonment has been given, that he will surrender himself in execution of the judgment upon its being affirmed or modified or that in case the judgment is reversed and the cause remanded for a new trial, that he will appear in the court to which the cause may be remanded and submit himself to the orders and process thereof. (Feb. 21, 1933, ch. 110, sec. 88 [290], 47 Stat. 895.)

547. Notice to district attorney when bail discretionary.—When the admission to bail is a matter of discretion the court or officer to whom the application is made must require reasonable notice thereof to be given to the district attorney.

548. Admission to bail in subdivision other than that in which warrant issued.—If the offense charged is bailable and the defendant is arrested in another division or subdivision, the officer must, upon being required by the defendant, take him before the magistrate in that subdivision who may admit the defendant to bail to answer before the magistrate issuing the warrant within a reasonable time. (Feb. 21, 1933, ch. 110, sec. 18 [30], 47 Stat. 883.)

549. Proceedings on taking bail in such cases.—Upon the taking of bail as provided in the next preceding section, the magistrate must certify that fact on the warrant, and deliver the warrant and undertaking of bail to the officer having charge of the defendant. The officer must then release the defendant from custody, and without delay deliver the warrant and undertaking to the magistrate before whom the defendant is required to appear.

550. Procedure where such bail not forthwith given.—If, on the admission of the defendant to bail as provided in section 548 of this title, the bail is not forthwith given, the officer must take the defendant before the magistrate who issued the warrant or to whom it is made returnable. (Feb. 21, 1933, ch. 110, sec. 19 [32], 47 Stat. 883.)

ARTICLE 2.—BAIL FOR APPEARANCE BEFORE MAGISTRATE FOR TRIAL

Sec.
561. Admission to bail in such case.
562. Terms and conditions of bond; date of appearance.
563. Commitment to jail on failure to furnish bond.
564. Admission to bail by officer in charge of police station.

561. Admission to bail in such case.—In the event that the offense charged against a person is triable in a magistrate's court, the defendant may be admitted to bail upon executing a bond in a sum not exceeding $500, to be fixed by the magistrate. (Feb. 21, 1933, ch. 110, sec. 13 [22], 47 Stat. 882.)

Cross-References

Admission to bail in subdivision other than that in which warrant issued, see sections 548 to 550 of this title.

Bail for appearance before magistrate for preliminary hearing, see section 546 a of this title.

Cash deposit in lieu of bond, see sections 601 to 604 of this title.

562. Terms and conditions of bond; date of appearance.—Such bond shall be in favor of the Government of the Canal Zone and shall be conditioned that the defendant shall be and appear before the magistrate on a certain date therein mentioned. The date of the appearance shall not be later than three days from the signing of the bond. The bond shall be signed by the defendant and two or more good and sufficient sureties. (Feb. 21, 1933, ch. 110, sec. 13 [22], 47 Stat. 882.)

CROSS-REFERENCE

Postponement of trial, see section 121 of this title.

563. Commitment to jail on failure to furnish bond.—If the defendant fails to enter into the bond referred to in the two next preceding sections, the magistrate shall commit him to jail awaiting trial. (Feb. 21, 1933, ch. 110, sec. 13 [22], 47 Stat. 882.)

564. Admission to bail by officer in charge of police station.—When an arrest is made either with or without a warrant for a misdemeanor triable in a magistrate's court and for any reason the officer making the arrest is unable to take the offender forthwith before a magistrate, he may take such offender forthwith to the nearest police station and the officer in charge thereof may accept bond, or a cash deposit in lieu thereof, in a sum not exceeding $500, to secure the appearance of the offender before the magistrate having jurisdiction of the case. The offender shall then be released from custody and the bond or cash deposit shall be delivered to the magistrate having jurisdiction of the case and a receipt therefor shall be given to such officer by the magistrate.

When a money deposit is made in lieu of bail bond the deposit shall be held and disposed of in accordance with the provisions of sections 601 to 604, 613, 621, 622 and 625 of this title. (Feb. 21, 1933, ch. 110, sec. 88A [291a], 47 Stat. 896.)

ARTICLE 3.—BAIL UPON BEING HELD TO ANSWER BEFORE INFORMATION

Sec.
571. Who may admit to bail in such case.
572. Nature and form of such bail.
573. Qualifications of sureties.
574. Justification by sureties.
575. Discharge of defendant upon allowance of bail.

571. Who may admit to bail in such case.—When the defendant has been held to answer upon a preliminary hearing for a public offense, the admission to bail may be by the officer by whom he is so held, or by any judge who has power to issue the writ of habeas corpus.

CROSS-REFERENCES

See also paragraph b of section 546 of this title.

Bail for appearance before magistrate for preliminary hearing, see paragraph a of section 546 of this title.

Right of magistrate to admit to bail for appearance before district court, see section 141 of this title.

Who may grant habeas corpus, see sections 723 and 724 of this title.

572. Nature and form of such bail.—Bail upon being held to answer after a preliminary hearing is a written undertaking, executed by two sufficient sureties, with or without the defendant, in the discretion of the court or magistrate, and acknowledged before the court or magistrate in substantially the following form:

> An order having been made on the ______ day of ______ A.D. 19__, by ______ (as the officer may be), that ______ be held to answer upon a charge of (stating briefly the nature of the

offense) upon which he has been admitted to bail in the sum of ______ dollars; we, ______ and ______ of ______ (stating their place of residence and occupation), hereby undertake that the above-named ______, will appear and answer any information growing out of the charge above mentioned, in whatever court it may be prosecuted, and will at all times hold himself amenable to the order and process of the court, and if convicted, will appear for judgment, and render himself in execution thereof; or, if he fails to perform either of these conditions, that we will pay to the Government of the Canal Zone, the sum of ______ dollars (inserting the sum in which the defendant is admitted to bail). (Feb. 21, 1933, ch. 110, sec. 89 [293], 47 Stat. 896.)

573. **Qualifications of sureties.**—The qualifications of sureties are as follows:

a. Each of them must be a resident of the Canal Zone; and

b. They must each be worth the amount specified in the undertaking, exclusive of property exempt from execution; but the court or judge, on taking bail, may allow more than two sureties to justify severally in amounts less than that expressed in the undertaking, if the whole justification be equivalent to that of sufficient bail. (Feb. 21, 1933, ch. 110, sec. 90 [294, subd. 1], 47 Stat. 896.)

574. **Justification by sureties.**—The sureties must in all cases justify by affidavit, taken before the officer accepting bail, that they each possess the qualifications provided in the next preceding section. The officer may further examine the bail upon oath concerning their sufficiency in such manner as he may deem proper.

575. **Discharge of defendant upon allowance of bail.**—Upon the allowance of bail and the execution of the undertaking, the officer must, if the defendant is in custody, make and sign an order for his discharge, upon the delivery of which to the proper officer the defendant must be discharged.

ARTICLE 4.—BAIL UPON AN INFORMATION BEFORE CONVICTION

Sec.
581. Continuation of the bail fixed upon holding defendant to answer.

Sec.
582. Fixing, increase or reduction of bail after information filed.

581. **Continuation of the bail fixed upon holding defendant to answer.**—The bail fixed by a magistrate under sections 571 to 575 of this title upon holding the defendant to answer for an offense triable in the district court, shall be construed to continue so as to require the defendant:

a. To appear and answer the information filed in the district court;

b. To render himself at all times amenable to the orders and process of the court; and

c. If convicted to appear for judgment and render himself in execution thereof. (Feb. 21, 1933, ch. 110, sec. 91 [297], 47 Stat. 896.)

582. **Fixing, increase or reduction of bail after information filed.**—After the filing of an information, the court in which the charge is pending, may fix, or, upon good cause shown, either in-

crease or reduce the amount of bail. If the amount is increased the court may order the defendant to be committed to actual custody unless he gives bail in the increased amount. If application is made by the defendant for a reduction of the amount, notice of the application must be served on the district attorney. (Feb. 21, 1933, ch. 110, sec. 92 [302], 47 Stat. 897.)

ARTICLE 5.—BAIL ON APPEAL

Sec.
591. Who may admit to bail in such case.
592. Provisions applicable to such bail.

591. Who may admit to bail in such case.—In cases in which the defendant may be admitted to bail upon an appeal, the order admitting him to bail may be made by any judge having the power to issue a writ of habeas corpus, or by the judge or magistrate before whom the trial was had.

CROSS-REFERENCES

Right to bail on appeal, see section 545 of this title.
Terms of admission to bail on appeal, see section 546 of this title.

592. Provisions applicable to such bail.—The sureties must possess the qualifications, and the bail must be put in, in all respects as provided in sections 571 to 575 of this title, except that the undertaking must be conditioned as prescribed in section 546 of this title, for undertakings of bail on appeal. (Feb. 21, 1933, ch. 110, sec. 93 [304], 47 Stat. 897.)

ARTICLE 6.—CASH DEPOSIT IN LIEU OF BAIL

Sec.
601. Right to make cash deposit.
602. Issuance of certificate of deposit.
603. Cash deposit after bail is given.
604. Application of deposit to fine and costs; surplus.

601. Right to make cash deposit.—The defendant in a criminal proceeding may make a cash deposit in lieu of a bail bond. (Feb. 21, 1933, ch. 110, sec. 94 [305], 47 Stat. 897.)

602. Issuance of certificate of deposit.—A certificate of deposit shall be issued by the magistrate or the clerk of the district court, as the case may be, to each defendant who makes a cash deposit in lieu of bail. (Feb. 21, 1933, ch. 110, sec. 94 [305], 47 Stat. 897.)

603. Cash deposit after bail is given.—If the defendant has given bail, he may, at any time before the forfeiture of the undertaking, in like manner deposit the sum mentioned in the recognizance, and upon the deposit being made, the bail is exonerated.

604. Application of deposit to fine and costs; surplus.—When money has been deposited, if it remains on deposit at the time of a judgment for the payment of a fine, the magistrate, or the clerk of the district court under the direction of the court, as the case may be, must apply the money in satisfaction thereof, and after satisfying the fine and costs, must refund the surplus, if any, to the defendant. If the defendant is not found within a period of two years from the date of the judgment, the magistrate or the clerk of the district court, as the case may be, shall turn over such surplus to the collector of the Panama Canal to be accounted for by him in the same manner as fines are accounted for. (Feb. 21, 1933, ch. 110, sec. 95 [307], 47 Stat. 897.)

ARTICLE 7.—SURRENDER OF THE DEFENDANT

Sec.
611. Surrender of defendant and exoneration of bail.
612. Authority of bail to arrest or cause arrest of defendant.
613. Return of money deposit on surrender.

611. Surrender of defendant and exoneration of bail.—At any time before the forfeiture of their undertaking, the bail may surrender the defendant in their exoneration, or he may surrender himself, to the officer to whose custody he was committed at the time of giving bail, in the following manner:

a. A certified copy of the undertaking of the bail must be delivered to the officer, who must detain the defendant in his custody thereon as upon a commitment, and by a certificate in writing acknowledge the surrender; and

b. Upon the undertaking and the certificate of the officer, the court in which the action or appeal is pending may, upon notice of five days to the district attorney, with a copy of the undertaking and certificate, order that the bail be exonerated, and on filing the order and the papers used on the application, they are exonerated accordingly.

612. Authority of bail to arrest or cause arrest of defendant.—For the purpose of surrendering the defendant, the bail, at any time before they are finally discharged, and at any place within the Canal Zone, may themselves arrest him, or by a written authority, indorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so.

613. Return of money deposit on surrender.—If money has been deposited in lieu of bail and the defendant at any time before the forfeiture thereof surrenders himself to the officer to whom the commitment was directed, in the manner provided in the two next preceding sections, the court must order a return of the deposit to the defendant upon the production of the certificate of the officers showing the surrender, and upon five days' notice to the district attorney, with a copy of the certificate.

ARTICLE 8.—FORFEITURE OF THE UNDERTAKING OF BAIL OR OF THE DEPOSIT OF MONEY

Sec.
621. Forfeiture of undertaking of bail or money deposit.
622. Discharge of forfeiture upon satisfactory excuse.
623. Enforcement of forfeiture by action.
624. Execution on summary judgment against sureties.
625. Disposition of forfeited money deposits.

621. Forfeiture of undertaking of bail or money deposit.—If without sufficient excuse the defendant neglects to appear for arraignment, or for trial or judgment, or upon any other occasion when his presence in court may be legally required, or to surrender himself in execution of the judgment, the court must direct the fact to be entered upon its minutes, and the undertaking of bail, or the money deposited in lieu of bail, as the case may be, is thereupon declared forfeited.

622. Discharge of forfeiture upon satisfactory excuse.—If at any time before the final adjournment of the court, the defendant, or his bail, appears and satisfactorily excuses his neglect, the court may direct the discharge of the forfeiture of the undertaking or the deposit, upon such terms as may be just.

623. Enforcement of forfeiture by action.—If the forfeiture is not discharged, as provided in the next preceding section, the district attorney may, at any time after the adjournment of the court, proceed by action only against the bail upon their undertaking.

CROSS-REFERENCE

District attorney to prosecute all forfeiture cases, see section 17 of this title.

624. Execution on summary judgment against sureties.—In all cases of the forfeiture of bail bond the court shall enter judgment thereon summarily against the sureties, and thereupon execution shall issue to enforce payment of the judgment.

625. Disposition of forfeited money deposits.—If, by reason of the neglect of the defendant to appear, money deposited in lieu of bail is forfeited, and the forfeiture is not discharged or remitted, the magistrate, or the clerk of the district court, as the case may be, with whom it is deposited must pay over the same to the collector of the Panama Canal in the manner prescribed for the paying over of other funds. (Feb. 21, 1933, ch. 110, sec. 96 [313], 47 Stat. 897.)

ARTICLE 9.—RECOMMITMENT OF THE DEFENDANT AFTER HAVING GIVEN BAIL OR DEPOSITED MONEY IN LIEU THEREOF

Sec.
631. Cases in which defendant may be recommitted.
632. Order for commitment.
633. Arrest in either division or subdivision.
634. Commitment for failure to appear for judgment upon conviction.
Sec.
635. Admission to bail if order made for other cause.
636. Authority of magistrates to take such bail.
637. Form of undertaking in such cases.

631. Cases in which defendant may be recommitted.—The court to which the magistrate commits the defendant, or in which an information or appeal is pending, or to which a judgment on appeal is remitted to be carried into effect, may, by an order entered upon its minutes, direct the arrest of the defendant and his commitment to the officer to whose custody he was committed at the time of giving bail, and his detention until legally discharged, in the following cases:

a. When, by reason of his failure to appear, he has incurred a forfeiture of his bail, or of money deposited in lieu thereof; or

b. When it satisfactorily appears to the court that his bail, or either of them, are dead or insufficient, or have removed from the Canal Zone. (Feb. 21, 1933, ch. 110, sec. 97 [315], 47 Stat. 897.)

632. **Order for commitment.**—The order for the commitment of the defendant must recite generally the facts upon which it is founded, and direct that the defendant be arrested by any marshal, policeman or other peace officer, and committed to the officer in whose custody he was at the time he was admitted to bail, to be detained until legally discharged.

633. **Arrest in either division or subdivision.**—The defendant may be arrested pursuant to the order upon a certified copy thereof, in either division or subdivision, in the same manner as upon a warrant of arrest.

CROSS-REFERENCE

Arrest upon warrant in either division or subdivision, see section 89 of this title.

634. **Commitment for failure to appear for judgment upon conviction.**—If the order recites as the ground upon which it is made the failure of the defendant to appear for judgment upon conviction, the defendant must be committed according to the requirement of the order.

635. **Admission to bail if order made for other cause.**—If the order is made for any other cause and the offense is bailable the court may fix the amount of bail and cause a direction to be inserted in the order that the defendant be admitted to bail in the sum fixed, which must be specified in the order.

636. **Authority of magistrates to take such bail.**—When the defendant is admitted to bail in such a case, the bail may be taken by a magistrate. (Feb. 21, 1933, ch. 110, sec. 98 [320], 47 Stat. 898.)

637. **Form of undertaking in such cases.**—When the bail is taken upon the recommitment of the defendant, the undertaking must be in substantially the following form:

> An order having been made on the ______ day of ______ A.D., nineteen______, by the court (naming it) that ______ be admitted to bail in the sum of ______ dollars, in an action pending in that court against him in behalf of the Government of the Canal Zone, upon an (information or appeal, as the case may be), we, ______ and ______ of (stating their places of residence and occupation), hereby undertake that the above-named ______ will appear in that, or in any other court in which his appearance may be lawfully required upon that (information or appeal, as the case may be), and will at all times render himself amenable to its orders and process, and appear for judgment and surrender himself in execution thereof; or, if he fails to perform either of these conditions, that we will pay to the Government of the Canal Zone the sum of ______ dollars (insert the sum in which the defendant is admitted to bail).

CHAPTER 17.—WITNESSES

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ARTICLE 1.—COMPELLING ATTENDANCE OF WITNESSES

Sec.
651. Subpena defined.
652. Issuance of subpenas in general.
653. Issuance for witnesses for defendant.
654. Form of subpena.
655. Issuance of subpenas by district attorney.
656. Service of subpenas.
657. Advancement from per diem for expenses of witnesses.
658. Disobedience to subpena as a contempt.
659. Civil liability for disobedience to subpena issued on part of defendant.
660. Forfeiture of undertaking for failure to appear.
661. Manner of producing prisoner as witness.

Section 651. Subpena defined.—The process by which the attendance of a witness before a court or magistrate is required is a subpena. (Feb. 21, 1933, ch. 110, sec. 99 [322], 47 Stat. 898.)

652. Issuance of subpenas in general.—A subpena may be signed and issued by:

a. A magistrate before whom a complaint is made, for witnesses in the Canal Zone, either on behalf of the Government or of the defendant;

b. The judge of the district court; and

c. The clerk of the district court upon application either of the Government or the defendant. (Feb. 21, 1933, ch. 110, sec. 99 [322], 47 Stat. 898.)

CROSS-REFERENCES

Issuance by district attorney, see section 655 of this title.

Summoning witnesses for attendance at trial in magistrate's court, see also sections 122 and 123 of this title.

653. Issuance for witnesses for defendant.—A magistrate or the clerk of the district court must, at any time and without charge, issue subpenas for witnesses for the defendant upon his request. (Feb. 21, 1933, ch. 110, sec. 99 [322], 47 Stat. 898.)

654. Form of subpena.—A subpena authorized by sections 651 to 653 of this title must be substantially in the following form:

> The Government of the Canal Zone:
>
> You are commanded to appear before (the district court or the magistrate of ______ division or subdivision, or, as the case may be) at (naming the place) on (stating the day and hour), as a witness in a criminal action prosecuted by the Government of the Canal Zone.
>
> Given under my hand this ______ day of ______, A.D. 19____. (______ Magistrate, or by order of the court, ______ Clerk or otherwise, as the case may be).

If books, papers or documents are required, a direction to the following effect must be contained in the subpena: "And you are required also to bring with you the following (describing intelligibly the books, papers or documents required)". (Feb. 21, 1933, ch. 110, sec. 100 [323], 47 Stat. 898.)

655. Issuance of subpenas by district attorney.—The district attorney shall have power to issue subpenas for witnesses. (Feb. 21, 1933, ch. 110, sec. 34 [90], 47 Stat. 885.)

656. Service of subpenas.—A subpena may be served by any person, but a peace officer must serve any subpena delivered to him for service, either on the part of the Government of the Canal Zone or of the defendant, and must, without delay, make a written return of the service, subscribed by him, stating the time and place of service. The service is made by showing the original to the witness personally, and informing him of its contents.

657. Advancement from per diem for expenses of witnesses.—When a person attends before a court or magistrate as a witness in a criminal case, upon a subpena or in pursuance of an undertaking to testify on behalf of the prosecution, and it appears that he has come from a place more than three miles distant from the place where he is to appear, or that he is poor and unable to pay the expenses of such attendance, the court or magistrate, in its or his discretion, by an order upon the minutes if the attendance of the witness is upon a trial and by a written order in any other case, may direct the payment to the witness of a reasonable sum to pay his expenses, which sum shall be charged against his per diem. (Feb. 21, 1933, ch. 110, sec. 101 [325], 47 Stat. 898.)

658. Disobedience to subpena as a contempt.—Disobedience to a subpena, or a refusal to be sworn or to testify as a witness, may be punished by the court or magistrate as a contempt.

CROSS-REFERENCE

Contempt of court, see title 5, sections 211 to 212.

659. Civil liability for disobedience to subpena issued on part of defendant.—A witness disobeying a subpena issued on the part of the defendant, unless he shows good cause for his nonattendance, is liable to the defendant in the sum of $100, which may be recovered in a civil action.

660. Forfeiture of undertaking for failure to appear.—When a witness has entered into an undertaking to appear, upon his failure to do so the undertaking is forfeited in the same manner as undertakings of bail.

CROSS-REFERENCE

Forfeiture of undertakings of bail, see section 621 of this title.

661. Manner of producing prisoner as witness.—When the testimony of a material witness for the Government is required before a court in a criminal action and such witness is a prisoner in the penitentiary, or in jail, an order for his temporary removal from the penitentiary or jail, and for his production before the court, may be made by the court in which the action is pending, or by the judge thereof; but in case the penitentiary or jail is out of the division or subdivision in which the application is made, such order shall only be made upon the affidavit of the district attorney, or other person on behalf of the Government, showing that the testimony is material and necessary; and even then the granting of the order shall be in the discretion of the court or judge. The order shall be executed by the officer of the court in which it is made, whose duty it shall be to bring the prisoner before the proper court, to safely keep him, and when he is no longer required as a witness, to return him to the penitentiary or jail whence he was taken. The expense of executing such order shall be paid from the funds of the Government of the Canal Zone.

CROSS-REFERENCE

Bringing prisoner before a court, see section 905 of this title.

ARTICLE 2.—COMPETENCY OF WITNESSES

Sec.
671. Rules for determining competency of witnesses.
672. Competency of husband or wife.
673. Defendant as witness.

671. Rules for determining competency of witnesses.—The rules for determining the competency of witnesses in civil actions are applicable also to criminal actions and proceedings except as otherwise provided in this title. (Feb. 21, 1933, ch. 110, sec. 102 [328a], 47 Stat. 898.)

CROSS-REFERENCE

Competency of witnesses in civil actions, see title 4, sections 1901 to 1905.

672. Competency of husband or wife.—Neither husband nor wife is a competent witness for or against the other in a criminal action or proceeding to which one or both are parties, except with the consent of both, or in case of:

a. Criminal actions or proceedings for a crime committed by one against the person or property of the other;

b. Criminal violence upon one by the other;

c. Criminal actions or proceedings for bigamy or adultery; or

d. Criminal actions or proceedings brought under provisions of law requiring the husband to furnish proper maintenance and support to wife and minor children and providing for punishment for abandonment of wife or minor children. (Feb. 21, 1933, ch. 110, sec. 103 [328b], 47 Stat. 898.)

673. Defendant as witness.—A defendant in a criminal action or proceeding cannot be compelled to be a witness against himself; but if he offers himself as a witness, he may be cross-examined by the counsel for the Government as to all matters about which he was examined in chief. His neglect or refusal to be a witness cannot in any manner prejudice him nor be used against him on the trial or proceeding. (Feb. 21, 1933, ch. 110, sec. 104 [328c], 47 Stat. 899.)

CROSS-REFERENCE

See also section 10 of this title; and title 1, section 1 (e).

ARTICLE 3.—EXAMINATION OF WITNESSES CONDITIONALLY

Sec.
681. Right to have witnesses examined conditionally.
682. Grounds for ordering such examination.
683. Requisites of application for order.
684. Making of application for order.
685. Order for examination.
686. Examination not to take place when grounds nonexistent.
687. Right of defendant to be present at examination.
688. Enforcing attendance of witness.
689. Reducing testimony to writing and authenticating it.
690. Transmitting the deposition to proper court.
691. Reading the deposition in evidence.

681. Right to have witnesses examined conditionally.—When defendant has been held to answer a charge for a public offense either or both defendant and the Government may, either before or after an information, have witnesses examined conditionally in his or its behalf, as prescribed in this article. (Feb. 21, 1933, ch. 110, sec. 105 [329], 47 Stat. 899.)

CROSS-REFERENCE

Conditional examination of witness unable to give security for appearance in district court, see section 147 of this title.

682. Grounds for ordering such examination.—When a material witness for the defendant, or for the Government, is about to leave the Canal Zone, or is so sick or infirm as to afford reasonable grounds for apprehension that he will be unable to attend the trial, the defendant or the Government may apply for an order that the witness be examined conditionally. (Feb. 21, 1933, ch. 110, sec. 106 [330], 47 Stat. 899.)

683. Requisites of application for order.—The application must be made upon affidavit stating:

a. The nature of the offense charged;

b. The state of the proceedings in the action;

c. The name and residence of the witness, and that his testimony is material to the defense or the prosecution of the action; and

d. That the witness is about to leave the Canal Zone, or is so sick or infirm as to afford reasonable grounds for apprehending that he will not be able to attend the trial. (Feb. 21, 1933, ch. 110, sec. 107 [331], 47 Stat. 899.)

684. Making of application for order.—The application may be made to the district court or the judge thereof, and in case of his absence or inability to act may be made to a magistrate. Three days' notice of the application must be given to the opposite party. (Feb. 21, 1933, ch. 110, sec. 107 [331], 47 Stat. 899.)

685. Order for examination.—If the court, judge or magistrate is satisfied that the examination of the witness is necessary, an order must be made that the witness be examined conditionally, at a specified time and place, and before a judge or magistrate designated therein. (Feb. 21, 1933, ch. 110, sec. 108 [332], 47 Stat. 899.)

686. Examination not to take place when grounds nonexistent.—If, at the time and place so designated, it is shown to the satisfaction of the judge or magistrate that the witness is not about to leave the Canal Zone, or is not sick or infirm, or that the application was made to avoid the examination of the witness on the trial, the examination cannot take place. (Feb. 21, 1933, ch. 110, sec. 110 [334], 47 Stat. 900.)

687. **Right of defendant to be present at examination.**—The defendant has the right to be present in person and with counsel at such examination, and if the defendant is in custody, the officer in whose custody he is, must be informed of the time and place of such examination and must take the defendant thereto and keep him in the presence and hearing of the witness during the examination. (Feb. 21, 1933, ch. 110, sec. 109 [333], 47 Stat. 899.)

688. **Enforcing attendance of witness.**—The attendance of the witness may be enforced by a subpena, issued by the judge or magistrate before whom the examination is to be taken.

689. **Reducing testimony to writing and authenticating it.**—The testimony given by the witness must be reduced to writing and be properly authenticated.

690. **Transmitting the deposition to proper court.**—The judge or magistrate must seal up the deposition taken and transmit it to the clerk of the court in which the action is pending or may come for trial.

691. **Reading the deposition in evidence.**—The deposition, or a certified copy thereof, may be read in evidence by either party on the trial, upon its appearing that the witness is unable to attend, by reason of his death, insanity, sickness or infirmity, or of his continued absence from the Canal Zone. Upon reading the deposition in evidence, the same objections may be taken to a question or answer contained therein as if the witness had been examined orally in court.

ARTICLE 4.—EXAMINATION OF WITNESSES ON COMMISSION

Sec.
701. Right of defendant to examine witness residing out of Canal Zone.
702. Grounds of application for order to examine.
703. Commission defined.
704. Requisites of application.
705. Application, to whom made.
706. Ordering commission to issue; stay of trial.
707. Settlement and allowance of interrogatories.

Sec.
708. Indorsement on commission of direction as to return.
709. Execution of the commission.
710. Return of commission through an agent.
711. Return by another in event of death of agent.
712. Filing of commission and return.
713. Right to inspect and have copies of commission and return.
714. Reading depositions in evidence.

701. **Right of defendant to examine witness residing out of Canal Zone.**—When an issue of fact is joined upon an information, the defendant may have any material witness residing out of the Canal Zone examined in his behalf, as prescribed in this article, and not otherwise.

702. **Grounds of application for order to examine.**—When a material witness for the defendant resides out of the Canal Zone, the defendant may apply for an order that the witness be examined on a commission.

703. **Commission defined.**—A commission is a process issued under the seal of the court and the signature of the clerk directed to some person designated as commissioner, authorizing him to examine the

witness under oath upon the interrogatories annexed thereto, to take and certify the deposition of the witness, and to return it according to the directions given with the commission.

704. Requisites of application.—The application must be made upon affidavit stating:

a. The nature of the offense charged;

b. The state of the proceedings in the action, and that an issue of fact has been joined therein;

c. The name of the witness, and that his testimony is material to the defense of the action; and

d. That the witness resides and is at the time out of the Canal Zone, and will not be within the jurisdiction of the court at the time of the trial.

705. Application, to whom made.—The application may be made to the court or judge and must be upon three days' notice to the district attorney.

706. Ordering commission to issue; stay of trial.—If the court to whom the application is made is satisfied of the truth of the facts stated, and that the examination of the witness is necessary to the attainment of justice, an order must be made that a commission be issued to take his testimony; and the court may insert in the order a direction that the trial be stayed for a specified time, reasonably sufficient for the execution and return of the commission.

707. Settlement and allowance of interrogatories.—When the commission is ordered, the defendant must serve upon the district attorney without delay a copy of the interrogatories to be annexed thereto, with two days' notice of the time at which they will be presented to the court or judge. The district attorney may in like manner serve upon the defendant or his counsel cross-interrogatories, to be annexed to the commission, with the like notice. In the interrogatories either party may insert any question pertinent to the issue. When the interrogatories and cross-interrogatories are presented to the court or judge, according to the notice given, the court or judge must modify the questions so as to conform them to the rules of evidence, and must indorse upon them his allowance, and annex them to the commission.

708. Indorsement on commission of direction as to return.—Unless the parties otherwise consent, by an indorsement upon the commission, the court or judge must indorse thereon a direction as to the manner in which it must be returned, and may, in his discretion, direct that it be returned by mail or otherwise, addressed to the clerk of the court in which the action is pending, designating his name and the place where his office is kept.

709. Execution of the commission.—The commissioner, unless otherwise specially directed, may execute the commission as follows:

a. He must publicly administer an oath to the witness that his answers given to the interrogatories shall be the truth, the whole truth, and nothing but the truth;

b. He must cause the examination of the witness to be reduced to writing and subscribed by him;

c. He must write the answers of the witness as nearly as possible in the language in which he gives them, and read to him each answer as it is taken down, and correct or add to it until it conforms to what he declares is the truth;

d. If the witness declines to answer a question, that fact, with the reason assigned by him for declining, must be stated;

e. If any papers or documents are produced before him and proved by the witness, they, or copies of them, must be annexed to the deposition subscribed by the witness and certified by the commissioner;

f. The commissioner must subscribe his name to each sheet of the deposition, and annex the deposition with the papers and documents proved by the witness, or copies thereof, to the commission, and must close it up under seal and address it as directed by the indorsement thereon;

g. If there is a direction on the commission to return it by mail, the commissioner must forthwith deposit it in the nearest post office; and

h. If any other direction is made by the written consent of the parties, or by the court or judge, or the commission, as to its return, the commissioner must comply with the direction.

A copy of this section must be annexed to the commission.

710. Return of commission through an agent.—If the commission and return are delivered by the commissioner to an agent, such agent must deliver the same to the clerk to whom it is directed, or to the judge of the court in which the action is pending, by whom it may be received and opened, upon the agent making affidavit that he received it from the hands of the commissioner, and that it has not been opened or altered since he received it.

711. Return by another in event of death of agent.—If the agent is dead, or from sickness or other casualty unable personally to deliver the commission and return, as prescribed in the next preceding section, it may be received by the clerk or judge from any other person, upon his making affidavit that:

a. He received it from the agent;

b. The agent is dead or from sickness or other casualty unable to deliver it;

c. It has not been opened or altered since the person making the affidavit received it; and

d. He believes it has not been altered or opened since it came from the hands of the commissioner.

712. Filing of commission and return.—The clerk or judge receiving and opening the commission and return, must immediately file them, with the affidavit mentioned in the two next preceding sections, in the office of the clerk of the court in which the information is pending. If the commission and return are transmitted by mail, the clerk to whom they are addressed must open and file them in his office, where they must remain, unless otherwise directed by the court or judge.

713. Right to inspect and have copies of commission and return.—The commission and return must at all times be open to the inspection of the parties, who must be furnished by the clerk with copies of the same, or of any part thereof, on payment of his fees.

714. Reading depositions in evidence.—The depositions taken under the commission may be read in evidence by either party on the trial, upon it being shown that the witness is unable to attend from any cause whatever, and the same objections may be taken to a question in the interrogatories or to an answer in the deposition, as if the witness had been examined orally in court.

CHAPTER 18.—HABEAS CORPUS

Sec.
721. Right to writ in general.
722. Application for writ.
723. Granting of writ.
724. Power of magistrates in absence of district judge.
725. Contents of writ.
726. Service of writ.
727. Disobedience for defect of form, forbidden.
728. Proceedings upon disobedience to writ.
729. Damages for failure to obey writ.
730. Contents of return.
731. Duty to produce body according to command of writ.
732. Procedure in case of illness of person directed to be produced.
733. Hearing on return.
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735. Disposition of person pending judgment on return.
736. Discharge of person where no legal cause for restraint shown.
737. Remanding person detained by virtue of lawful process.
738. Discharge of person detained by virtue of process, in certain cases.
739. Discharge for formal defect in warrant of commitment, forbidden.
740. Right to writ when committed on criminal charge.
741. Hearing and disposition where charge or process defective.
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743. Commitment to legal custody of person held illegally.
744. Imprisonment again after discharge.
745. Issuance of warrant in lieu of writ in certain cases.
746. Inserting command for apprehension of person charged with detention.
747. Execution of warrant.
748. Return and hearing on warrant.
749. Discharge or remand upon hearing on warrant.
750. Time of issuance and service of writ or process under this chapter.
751. Issuance and return of writs and process under this chapter.
752. Place for return of writs and process.

Section 721. Right to writ in general.—Any person unlawfully imprisoned or restrained of his liberty, under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of such imprisonment or restraint.

CROSS-REFERENCE

Right to writ when committed on criminal charge, see section 740 of this title.

722. Application for writ.—Application for the writ is made by petition signed either by the person for whose relief it is intended or by some person in his behalf, and must specify:

a. That the person in whose behalf the writ is applied for is imprisoned or restrained of his liberty;

b. The officer or person by whom he is so confined or restrained, naming all the parties if they are known or describing them if they are not known;

c. The place where the person is so confined or restrained; and

d. In what the alleged illegality consists, if the imprisonment is alleged to be illegal.

The petition must be verified by the oath of the person making the application.

CROSS-REFERENCE

Deposit on filing of application for writ, see title 4, section 982.

723. Granting of writ.—The writ of habeas corpus may be granted by the district court or the judge thereof, upon petition by or on behalf of any person restrained of his liberty. When a petition is presented the court or judge must grant it without delay if it appears that it ought to issue.

CROSS-REFERENCE

Power of judges of Circuit Court of Appeals, see U.S. Code, title 28, sections 452 et seq.

724. Power of magistrates in absence of district judge.—During the absence of the district judge, the powers conferred upon him and the jurisdiction conferred upon the district court by this chapter may be exercised by a magistrate or a magistrate's court; but the magistrate herein referred to must be other than the one who committed the person to jail. In the event the magistrate or magistrate's court denies the writ, the proceedings may be begun and proceeded with de novo before the district court or judge upon his return. (Feb. 21, 1933, ch. 110, sec. 116 [413a], 47 Stat. 900.)

725. Contents of writ.—The writ must be directed to the person having custody of or restraining the person on whose behalf the application is made, and must command him to have the body of such person before the court or judge before whom the writ is returnable at a time and place therein specified.

726. Service of writ.—If the writ is directed to any ministerial officer of the court out of which it issues, it must be delivered by the clerk to such officer without delay, as other writs are delivered for service. If it is directed to any other person, it must be delivered to such officer of the court and be by him served upon such person by delivering the same to him without delay. If the person to whom the writ is directed cannot be found, or refuses admittance to the officer or person serving or delivering the writ, it may be served or delivered by leaving it at the residence of the person to whom it is directed, or by affixing it to some conspicuous place on the outside, either of his dwelling house or of the place where the person is confined or under restraint.

727. Disobedience for defect of form, forbidden.—No writ of habeas corpus can be disobeyed for defect of form, if it sufficiently appears therefrom in whose custody or under whose restraint the party imprisoned or restrained is, the officer or person detaining him, and the court or judge before whom he is to be brought.

728. Proceedings upon disobedience to writ.—If the person to whom the writ is directed refuses, after service, to obey the same, the court or judge, upon affidavit, must issue an attachment against such person; directed to any officer, commanding him forthwith to apprehend such person and bring him immediately before such court or judge; and upon being so brought, he must be committed to jail until he makes due return to such writ, or is otherwise legally discharged.

CROSS-REFERENCE

Refusing to obey or eluding service of writ, see title 5, sections 191 to 193.

729. Damages for failure to obey writ.—If the officer or person to whom the writ is directed refuses obedience to the command thereof, he shall forfeit and pay to the person aggrieved a sum not exceeding $1,000, to be recovered by action in any court of competent jurisdiction.

730. Contents of return.—The person upon whom the writ is served must state in his return plainly and unequivocally:

a. Whether he has or has not the person in his custody, or under his power or restraint.

b. If he has the person in his custody or power, or under his restraint, he must state the authority and cause of such imprisonment or restraint.

c. If the person is detained by virtue of any writ, warrant or other written authority, a copy thereof must be annexed to the return, and the original produced and exhibited to the court or judge on the hearing of such return.

d. If the person upon whom the writ is served had the person in his power or custody, or under his restraint, at any time prior or subsequent to the date of the writ of habeas corpus, but has transferred such custody or restraint to another, the return must state particularly to whom, at what time and place, for what cause, and by what authority, such transfer took place.

e. The return must be signed by the person making the same, and, except when such person is a sworn public officer and makes such return in his official capacity, it must be verified by his oath.

731. Duty to produce body according to command of writ.—The person to whom the writ is directed, if it is served, must bring the body of the person in his custody or under his restraint, according to the command of the writ, except in the cases specified in the section next following.

732. Procedure in case of illness of person directed to be produced.—When, from sickness or infirmity of the person directed to be produced, he cannot, without danger, be brought before the court or judge, the person in whose custody or power he is may state that fact in his return to the writ, verifying the same by affidavit. If the court or judge is satisfied of the truth of such return, and the return to the writ is otherwise sufficient, the court or judge may proceed to decide on such return and to dispose of the matter as if such person had been produced on the writ, or the hearing thereof may be adjourned until such person can be produced.

733. Hearing on return.—The court or judge before whom the writ is returned must, immediately after the return, proceed to hear and examine the return, and such other matters as may be properly submitted to the hearing and consideration.

734. Proceedings on the hearing.—The person brought before the court or judge, on the return of the writ, may deny or controvert any of the material facts or matters set forth in the return, or except to the sufficiency thereof, or allege any fact to show either that his imprisonment or detention is unlawful or that he is entitled to his discharge. The court or judge must thereupon proceed in a summary way to hear such proof as may be produced against such imprisonment or detention, or in favor of the same, and to dispose of such person as the justice of the case may require, and has full power and authority to require and compel the attendance of witnesses, by process of subpena and attachment, and to do and perform all other acts and things necessary to a full and fair hearing and determination of the case.

735. Disposition of person pending judgment on return.—Until judgment is given on the return, the court or judge before whom any person may be brought on such writ may commit him to the custody of the warden of the jail, or place him in such care or under such custody as his age or circumstances may require.

736. Discharge of person where no legal cause for restraint shown.—If no legal cause is shown for such imprisonment or restraint, or for the continuation thereof, the court or judge must discharge such person from the custody or restraint under which he is held.

737. Remanding person detained by virtue of lawful process.—The court or judge, if the time during which such person may be legally detained in custody has not expired, must remand such person, if it appears that he is detained in custody:

a. By virtue of lawful process issued by a court or judge in a case where such court or judge has jurisdiction; or

b. By virtue of a warrant or final judgment or decree of any competent court of criminal jurisdiction, or of any process issued upon such warrant, judgment or decree.

738. Discharge of person detained by virtue of process, in certain cases.—If it appears on the return of the writ that the prisoner is in custody by virtue of process from any court of the Canal Zone, or judge or officer thereof, such prisoner may be discharged in any of the following cases, subject to the restrictions of the next preceding section:

a. When the jurisdiction of the court or officer has been exceeded;

b. When the imprisonment was at first lawful, yet by some act, omission, or event which has taken place afterwards, the party has become entitled to a discharge;

c. When the process is defective in some matter of substance required by law, rendering such process void;

d. When the process, though proper in form, has been issued in a case not allowed by law;

e. When the person having custody of the prisoner is not the person allowed by law to detain him;

f. Where the process is not authorized by any order, judgment or decree of any court, nor by any provision of law; or

g. Where a person has been committed on a criminal charge without reasonable or probable cause.

739. Discharge for formal defect in warrant of commitment, forbidden.—If any person is committed to prison, or is in custody of any officer on any criminal charge, by virtue of any warrant of commitment of a court, such person must not be discharged on the ground of any mere defect of form in the warrant of commitment.

740. Right to writ when committed on criminal charge.—Any person who has been committed on a criminal charge may be brought before the district judge on a writ of habeas corpus. (Feb. 21, 1933, ch. 110, sec. 115 [399], 47 Stat. 900.)

741. Hearing and disposition where charge or process defective.—If it appears to the court or judge by affidavit or otherwise or upon the inspection of the process or warrant of commitment and such other papers in the proceedings as may be shown to the court or judge, that the person is guilty of a criminal offense or ought not to be discharged, the court or judge, although the charge is defective or not substantially set forth in the process or warrant of commitment, must cause the complainant or other necessary witnesses to be subpenaed to attend at such time as ordered, to testify before the court or judge; and upon the examination he may discharge the prisoner, admit him to bail if the offense is bailable or recommit him to custody, as may be just and legal.

742. Remanding person to custody where not entitled to discharge or bailed.—If a person brought before the court or judge on the return of the writ is not entitled to his discharge, and is not bailed, where such bail is allowable, the court or judge must remand him to custody or place him under the restraint from which he was taken, if the person under whose custody or restraint he was is legally entitled thereto.

743. Commitment to legal custody of person held illegally.—In cases where any person is held under illegal restraint or custody, or any other person is entitled to the restraint or custody of such person, the judge or court may order such person to be committed to the restraint or custody of such person as is by law entitled thereto.

744. Imprisonment again after discharge.—No person who has been discharged by order of the court or judge upon habeas corpus can be again imprisoned or restrained, or kept in custody for the same cause, except in the following cases:

a. If he has been discharged from custody on a criminal charge, and is afterwards committed for the same offense, by legal order or process; or

b. If, after a discharge for defect of proof, or for any defect of the process, warrant or commitment in a criminal case, the prisoner is again arrested on sufficient proof and committed by legal process for the preceding offense.

Cross-Reference

Imprisonment of person discharged upon writ, see title 5, section 192.

745. Issuance of warrant in lieu of writ in certain cases.—When it appears to the district court or judge that any one is illegally held in custody, confinement or restraint, and that there is reason to believe that such person will be carried out of the jurisdiction of the court or judge before whom the application is made, or will suffer some irreparable injury before compliance with the writ of habeas corpus can be enforced, such court or judge may cause a warrant to be issued, reciting the facts, and directed to any court officer, commanding such officer to take such person thus held in custody, confinement or restraint, and forthwith bring him before such court or judge, to be dealt with according to law.

746. Inserting command for apprehension of person charged with detention.—The court or judge may also insert in such warrant a command for the apprehension of the person charged with such illegal detention and restraint.

747. Execution of warrant.—The officer to whom such warrant is delivered must execute it by bringing the person or persons therein named before the court or judge who directed the issuing of such warrant.

748. Return and hearing on warrant.—The person alleged to have such person under illegal confinement or restraint may make return to such warrant as in case of a writ of habeas corpus, and the same may be denied, and like allegations, proofs and trial may thereupon be had as upon a return to a writ of habeas corpus.

749. Discharge or remand upon hearing on warrant.—If such person is held under illegal restraint or custody, he must be discharged; and if not, he must be restored to the care or custody of the person entitled thereto.

750. Time of issuance and service of writ or process under this chapter.—Any writ or process authorized by this chapter may be issued and served on any day or at any time.

751. Issuance and return of writs and process under this chapter.—All writs, warrants, process and subpenas authorized by the provisions of this chapter must be issued by the clerk of the court, and, except subpenas, must be sealed with the seal of such court and served and returned forthwith, unless the court or judge shall specify a particular time for any such return.

752. Place for return of writs and process.—All such writs and process, when made returnable before a judge, must be returned before him at the place of holding court, and there heard and determined.

CHAPTER 19.—SEARCH WARRANTS

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761. Search warrant defined.
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763. Issuance only upon probable cause supported by affidavit.
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765. Contents of depositions.
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772. Period within which warrant must be served.
773. Receipting by officer for property taken.
774. Disposition of property taken.
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776. Delivery of copies of inventory.
777. Proceedings where grounds of warrant controverted.
778. Restoration of property on certain grounds.
779. Return of papers to court having power to inquire into offense.
780. Directing search of defendant in presence of judge or magistrate.

Section 761. Search warrant defined.—A search warrant is an order in writing, in the name of the Government of the Canal Zone, signed by a judge or magistrate of a court of competent jurisdiction, directed to a peace officer, commanding him to search for personal property and bring it before the judge or magistrate who issued the writ.

CROSS-REFERENCES

Search warrants, see also U.S. Code, title 18, sections 611 to 633, particularly sections 632 and 633 (appendix, p. 947).

Maliciously procuring search warrant, see title 5, section 171.

762. Grounds for issuance and places from which property may be taken.—It may be issued upon either of the following grounds:

a. When the property was stolen or embezzled; in which case it may be taken on the warrant from any place in which it is concealed, or from the possession of the person by whom it was stolen or embezzled, or from any person in whose possession it may be;

b. When it was used as the means of committing a felony; in which case it may be taken on the warrant from the place in which it is concealed or from the possession of the person by whom it was used in the commission of the offense, or from any person in whose possession it may be;

c. When it is in the possession of any person with the intent to use it as a means of committing a public offense, or in the possession of another to whom he may have delivered it for the purpose of concealing it or preventing its being discovered; in which case it may be taken on the warrant from such person, or from any place occupied by him or under his control, or from the possession of the person to whom he may have so delivered it; or

d. When the property is a cask, keg, bottle, vessel, siphon, can, case or other package, bearing printed, branded, stamped, engraved, etched, blown or otherwise attached or produced thereon the duly filed trademark or name of the person by whom, or in whose behalf, the search warrant is applied for, in the possession of any person except the owner thereof, with intent to sell or traffic in the same, or refill the same with intent to defraud the owner thereof with such intent, and without such owner's consent thereto, or unless the same shall have been purchased from the owner thereof, in which case it may be taken on the warrant from such person, or from any place occupied by him, or under his control, or from the possession of the person to whom he may have delivered it.

763. Issuance only upon probable cause supported by affidavit.—A search warrant cannot be issued but upon probable cause, supported by affidavit, naming or describing the person, and particularly describing the property and the place to be searched.

764. Examination of complainant and witnesses and taking their depositions.—The judge or magistrate must, before issuing the warrant, examine on oath the complainant and any witnesses he may produce, and take their depositions in writing and cause them to be subscribed by the persons making them.

765. Contents of depositions.—The depositions must set forth the facts tending to establish the ground of the application or probable cause for believing that they exist.

766. Issuance of search warrant.—If the judge or magistrate is thereupon satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, he must issue a search warrant, signed by him with his name of office, to a peace officer, commanding him forthwith to search the person or place named, for the property specified, and to bring it before the judge or magistrate.

767. Form of warrant.—The warrant must be in substantially the following form:

______ Court.
______ Division (or Subdivision).

The Government of the Canal Zone to the Marshal or any peace officer of the Canal Zone.

Proof by affidavit having this day been made before me by (naming every person whose affidavit has been taken), (stating that the grounds of the application, or if the affidavit be not positive, that there is probable cause for believing that, stating the ground of the application), you are therefore commanded, in the daytime (or at any time of the day or night, as the case may be) to make immediate search on the person of ______ (or in the house situated ______ describing it, or any other place to be searched, with reasonable particularity, as the case may be) for the following property: (describing it with reasonable particularity), and if you find the same, or any part thereof, to bring it forthwith before me (stating the place).

Given under my hand and dated this ______ day of ______ A.D., nineteen ______.

(Official signature.)

768. Who may serve search warrant.—A search warrant may, in all cases, be served by any of the officers mentioned in its direction, but by no other person, except in aid of the officer on his requiring it, he being present and acting in its execution.

769. Authority of officer executing warrant if refused admittance.—The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance.

770. Authority of officer in liberating assistant or self.—He may break open any outer or inner door or window of a house for the purpose of liberating a person who, having entered to aid him in the execution of the warrant, is detained therein, or when necessary for his own liberation.

771. Direction in warrant as to service in daytime or nighttime.—The direction in the warrant must state that it be served in the daytime, unless the affidavits are positive that the property is on the person or in the place to be searched, in which case the direction may be that it be served at any time of the day or night.

772. Period within which warrant must be served.—A search warrant may be executed and returned to the court by which it was issued within ten days after its date; after the expiration of this time, the warrant, unless executed, is void.

773. **Receipting by officer for property taken.**—When the officer takes property under the warrant, he must give a receipt for the property taken (specifying it in detail) to the person from whom it was taken by him, or in whose possession it was found; or, in the absence of any person, he must leave it in the place where he found the property.

774. **Disposition of property taken.**—When the property is delivered to the judge or magistrate, he must, if it was stolen or embezzled, dispose of it as provided in sections 822 to 827 of this title. If it was taken on a warrant issued on the grounds stated in paragraphs b and c of section 762 of this title, he must retain it in his possession, subject to the order of the court to which he is required to return the proceedings before him, or of any other court in which the offense in respect to which the property taken is triable. (Feb. 21, 1933, ch. 110, sec. 117 [427], 47 Stat. 901.)

775. **Return of warrant and delivery of inventory of property taken.**—The officer must forthwith return the warrant to the judge or magistrate, and deliver to him a written inventory of the property taken, made publicly or in the presence of the person from whose possession it was taken, and of the applicant for the warrant, if they are present, verified by the affidavit of the officer at the foot of the inventory, to the following effect: " I, ——— (the officer by whom this warrant was executed) do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant."

776. **Delivery of copies of inventory.**—The judge or magistrate must thereupon, if required, deliver a copy of this inventory to the person from whose possession the property was taken, and to the applicant for the warrant.

777. **Proceedings where grounds of warrant controverted.**—If the grounds on which the warrant was issued are controverted, the judge or magistrate must proceed to take testimony in relation thereto, and the testimony of each witness must be reduced to writing.

778. **Restoration of property on certain grounds.**—If it appears that the property taken is not the same as that described in the warrant, or that there is no probable cause for believing the existence of the grounds on which the warrant was issued, the judge or magistrate must cause it to be restored to the person from whom it was taken.

779. **Return of papers to court having power to inquire into offense.**—The judge or magistrate must annex together the depositions, the search warrant and return, and the inventory, and, if he has not power to inquire into the offense in respect to which the warrant was issued, must file them at once in the court having power to so inquire.

780. Directing search of defendant in presence of judge or magistrate.—When a person charged with a felony is believed by the judge or magistrate before whom he is brought to have on his person a dangerous weapon, or anything which may be used as evidence of the commission of the offense, the judge or magistrate may direct him to be searched and the weapons or other thing to be retained, subject to his order, or to the order of the court in which the defendant may be tried.

CHAPTER 20.—DISMISSAL OF ACTION BEFORE OR AFTER INFORMATION

Sec.
791. Dismissal of action for want of timely charge or trial.
792. Ordering action to be continued from time to time.
793. Dismissal of action in furtherance of justice.
794. Discharge of defendant upon dismissal of action.
514. Execution of judgment for imprisonment.

Section 791. Dismissal of action for want of timely charge or trial.—The court, unless good cause to the contrary is shown, shall order the prosecution to be dismissed in the following cases:

a. Where a person has been held to answer for a public offense if an information is not filed against him within twenty days thereafter; or

b. If a defendant, whose trial has not been postponed upon his application, is not brought to trial within one hundred and twenty days after the filing of the information. (Feb. 21, 1933, ch. 110, sec. 111 [362, subs. 1], 47 Stat. 900.)

792. Ordering action to be continued from time to time.—If the defendant is not charged or tried as provided in the next preceding section, and sufficient reason therefor is shown, the court may order the action to be continued from time to time, and in the meantime may discharge the defendant from custody on his own undertaking of bail for his appearance to answer the charge at the time to which the action is continued.

793. Dismissal of action in furtherance of justice.—The court may, either of its own motion or upon the application of the district attorney and in furtherance of justice, order an action on an information to be dismissed. The reasons of the dismissal must be set forth in an order entered upon the docket.

794. Discharge of defendant upon dismissal of action.—If the court directs the action to be dismissed, the defendant must, if in custody, be discharged therefrom; or if admitted to bail, his bail is exonerated, or the money deposited in lieu of bail must be refunded to him.

795. Dismissal as bar to another prosecution.—An order for the dismissal of the action, as provided in this chapter, is a bar to any other prosecution for the same offense, if it is a misdemeanor, unless such order is explicitly made for the purpose of amending the complaint in the action, in which instance the order for dismissal of the action shall not act as a bar to a prosecution upon the amended complaint; but an order for the dismissal of the action is not a bar if the offense is a felony. (Feb. 21, 1933, ch. 110, sec. 112 [366], 47 Stat. 900.)

CHAPTER 21.—COMPROMISING CERTAIN OFFENSES BY LEAVE OF COURT

Sec.
801. Offenses which may be compromised.
802. Compromise in discretion of court.
803. Order as bar to another prosecution.
804. Chapter as providing sole mode of compromise.

Section 801. Offenses which may be compromised.—When a defendant is held to answer on a charge of a misdemeanor, for which the person injured by the act constituting the offense has a remedy by civil action, the offense may be compromised as provided in the section next following, except when it is committed:

a. By or upon an officer of justice, while in the execution of the duties of his office;

b. Riotously; or

c. With an intent to commit a felony.

802. Compromise in discretion of court.—If the party injured appears before the court in which the action is pending at any time before trial and acknowledges that he has received satisfaction for the injury, the court may, in its discretion, on payment of the costs incurred, order all proceedings to be stayed and the defendant to be discharged therefrom; but in such case the reasons for the order must be set forth therein, and entered on the minutes.

803. Order as bar to another prosecution.—The order mentioned in the next preceding section is a bar to another prosecution for the same offense.

804. Chapter as providing sole mode of compromise.—No public offense can be compromised, nor can any proceeding or prosecution for the punishment thereof be stayed upon a compromise, except as provided in this chapter.

CHAPTER 22.—INQUIRY INTO INSANITY OF DEFENDANT BEFORE TRIAL OR AFTER CONVICTION

Sec.
811. Prohibition of trial or punishment of person while insane.
812. Submission of question of sanity to experts named by court.
813. Trial of question of insanity.
814. Finding of experts, and proceedings thereafter.
815. Commitment to asylum as exonerating bail.
816. Detention of defendant in asylum until sane.

Section 811. Prohibition of trial or punishment of person while insane.—A person cannot be tried, adjudged to punishment, or punished for a public offense while he is insane.

CROSS-REFERENCE

Inquiry into sanity after judgment of death, see sections 524 to 527 of this title.

812. Submission of question of sanity to experts named by court.—If a substantial doubt arises as to the sanity of the defendant when an action is called for trial or at any time during the trial or when the defendant is brought up for judgment on conviction, the court must order the question as to his sanity to be submitted to three experts designated by the court, and the trial or the pronouncement of judgment must be suspended until the question is determined by their decision.

813. **Trial of question of insanity.**—The trial of the question of insanity must proceed in the following order:

a. The counsel for the defendant must open the case and offer evidence in support of the allegation of insanity;

b. The counsel for the Government may then open their case and offer evidence in support thereof;

c. The parties may then respectively offer rebutting testimony only, unless the court for good reason, in furtherance of justice, permits them to offer evidence upon their original cause;

d. When the evidence is concluded, on either or both sides without argument, the counsel for the Government must commence, and the defendant or his counsel may conclude the argument;

e. If the information is for an offense punishable with death, two counsel on each side may argue the cause, in which case they must do so alternately. In other cases the argument may be restricted to one counsel on each side; and

f. The court must then charge the experts, stating to them all matters of law necessary for their information in giving their verdict.

814. **Finding of experts, and proceedings thereafter.**—If the experts find the defendant sane, the trial must proceed or judgment be pronounced, as the case may be. If the experts find the defendant insane, the trial or judgment must be suspended until he becomes sane, and the court must order that he be in the meantime committed to an insane asylum, and that upon his becoming sane he be delivered to the warden of the jail.

815. **Commitment to asylum as exonerating bail.**—The commitment of the defendant, as mentioned in the next preceding section, exonerates his bail, or entitles a person authorized to receive the property of the defendant to a return of any money he may have deposited instead of bail.

816. **Detention of defendant in asylum until sane.**—If the defendant is received into the asylum, he must be detained there until he becomes sane. When he becomes sane, the superintendent must give notice of that fact to the district attorney. The warden must thereupon, without delay, bring the defendant from the asylum and place him in proper custody until he is brought to trial or judgment, as the case may be, or is legally discharged.

CHAPTER 23.—DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED

Sec.
821. Holding by officer of stolen property coming into his custody.
822. Restoration of such property to owner by court.
823. Restoration of stolen property coming into custody of court.
824. Restoration of stolen property by court before which trial is had.
825. Disposal of stolen property which is unclaimed.
826. Receipting for property taken from person arrested.
827. Police department entries as to stolen property.

Section 821. Holding by officer of stolen property coming into his custody.—When property alleged to have been stolen or embezzled, comes into the custody of a peace officer, he must hold it subject to the order of the court authorized by the section next following to direct the disposal thereof.

822. Restoration of such property to owner by court.—On satisfactory proof of the ownership of the property, the court before which the complaint is laid, or which examines the charge against the person accused of stealing or embezzling it, must order it to be delivered to the owner on his paying the necessary expense incurred in its preservation, to be certified by the judge or magistrate of the court. The order entitles the owner to demand and receive the property.

823. Restoration of stolen property coming into custody of court.—If property stolen or embezzled comes into custody of a court, it must be delivered to the owner on satisfactory proof of his title, and on his paying the necessary expense incurred in its preservation, to be certified by the judge or magistrate of the court.

824. Restoration of stolen property by court before which trial is had.—If the property stolen or embezzled has not been delivered to the owner, the court before which a trial is had for stealing or embezzling it, may, on proof of his title, order it to be restored to the owner.

825. Disposal of stolen property which is unclaimed.—If the property stolen or embezzled is not claimed by the owner before the expiration of six months from the conviction of a person for stealing or embezzling it, the court shall order it sold on such terms and under such conditions as the court shall direct. The officer making the sale shall return the proceeds into court, whereupon the court shall order the balance of the proceeds, after deducting therefrom the expenses incurred in the preservation and sale of the property, to be delivered to the collector of the Panama Canal to be covered into the Treasury of the United States as miscellaneous receipts. (Feb. 21, 1933, ch. 110, sec. 114 [379], 47 Stat. 900.)

826. Receipting for property taken from person arrested.—When money or other property is taken from a defendant, arrested upon a charge of a public offense, the officer taking it must at the time give duplicate receipts therefor, specifying particularly the amount of money or the kind of property taken; one of which receipts he must deliver to the defendant and the other of which he must forthwith file with the clerk of the court to which the depositions and statements are to be sent. When such property is taken by a police or peace officer, he must deliver one of the receipts to the defendant, and one, with the property, to the clerk or other person in charge at the police department.

827. Police department entries as to stolen property.—The clerk or person having charge at the police department must enter in a suitable book a description of every article of property alleged to be stolen or embezzled and brought into the office or taken from the person of a prisoner, and must attach a number to each article, and make a corresponding entry thereof.

CHAPTER 24.—PROCEEDINGS AGAINST CORPORATIONS

Sec.
831. Summons on complaint against corporation.
832. Service of summons.
833. Examination of charge.
834. Certificate of probable cause and return thereof.
835. Filing of information.
836. Appearance and plea.
837. Collection of fine imposed upon conviction.

Section 831. Summons on complaint against corporation.—Upon a complaint being filed against a corporation, a summons must be issued requiring the corporation to appear before the magistrate at a specified time and place, to answer the charge, the time to be not less than ten days after the issuing of the summons.

832. Service of summons.—The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president or other head of the corporation, or to the secretary, cashier or managing agent within the Canal Zone. (Feb. 21, 1933, ch. 110, sec. 113 [368], 47 Stat. 900.)

833. Examination of charge.—At the time appointed in the summons, the magistrate before whom the corporation is summoned to appear must proceed to investigate the charge in the same manner as in the case of a natural person, so far as these proceedings are applicable.

834. Certificate of probable cause and return thereof.—After hearing the proofs, the magistrate must certify either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the certificate.

835. Filing of information.—If the magistrate returns a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the district attorney may file an information thereon as in case of a natural person held to answer.

836. Appearance and plea.—If an information is filed, the corporation may appear by counsel to answer the same. If it does not thus appear, a plea of not guilty must be entered, and the same proceedings had thereon as in other cases.

837. Collection of fine imposed upon conviction.—When a fine is imposed upon a corporation on conviction, it may be collected by virtue of the order imposing it, by the proper officer of the court, out of the real and personal property of the corporation.

CHAPTER 25.—CLERK OF THE DISTRICT COURT

Sec.
841. Keeping of criminal docket.
842. Other duties as assigned by district judge.
843. Turning over revenues to collector of Panama Canal.

Section 841. Keeping of criminal docket.—A docket must be kept by the clerk of the district court denominated a criminal docket, in which he shall enter each criminal action and whatever proceedings are had therein, and a statement of the costs. (Feb. 21, 1933, ch. 110, sec. 38a [103], 47 Stat. 886.)

CROSS-REFERENCES

All informations filed with clerk, see section 175 or this title.
Appointment and compensation of clerk, see title 7, section 36.
Keeping calendar of pending actions, see section 311 of this title.

842. Other duties as assigned by district judge.—The clerk shall perform such other duties as may from time to time be assigned him by the judge of the district court. (Feb. 21, 1933, ch. 110, sec. 39 [105], 47 Stat. 886.)

843. Turning over revenues to collector of Panama Canal.—The clerk shall at the end of each month turn over to the collector of the Panama Canal all the Government revenues collected or paid to him of whatever character or nature. (Feb. 21, 1933, ch. 110, sec. 38a [103], 47 Stat. 886.)

CHAPTER 26.—FUGITIVES FROM JUSTICE; EXTRADITION

Art. Sec.
1. Reward for apprehension 851
2. Extradition between Canal Zone and United States or foreign countries generally 861
3. Extradition of fugitives from the Republic of Panama 881

ARTICLE 1.—REWARD FOR APPREHENSION

Section 851. Reward for apprehension of escaped convicts and certain offenders.—The Governor of the Panama Canal may offer a reward not exceeding $1,000 for the apprehension:

a. Of any convict who has escaped from the penitentiary; or

b. Of any person who has committed or is charged with the commission of an offense punishable with death.

ARTICLE 2.—EXTRADITION BETWEEN CANAL ZONE AND UNITED STATES OR FOREIGN COUNTRIES GENERALLY

Sec.
861. Application of laws and treaties of United States.
862. Warrant for arrest of fugitive from State or Territory.
863. Proceedings for arrest and commitment.
864. Commitment pending arrest on warrant of Governor.
865. Admission to bail pending arrest on warrant of Governor.
866. Giving notice of arrest to district attorney.
867. Giving of notice by district attorney to State or Territory.
868. Discharge of person unless arrested on warrant of Governor.
869. Inquiry by district court into cause of arrest and detention.
870. Accounts of person employed to bring fugitive back to Canal Zone.
871. No fee or reward for procuring return or detention of fugitive.

861. Application of laws and treaties of United States.—All laws and treaties relating to the extradition of persons accused of crime in force in the United States, to the extent that they are not in conflict with or superseded by any special treaty entered into between the United States and the Republic of Panama with respect to the Canal Zone, and all laws relating to the rendition of fugitives from justice as between the several States and Territories of the United States, shall extend to and be considered in force in the Canal Zone, and for such purposes the Canal Zone shall be considered and treated as an organized Territory of the United States. (Aug. 24, 1912, ch. 390, sec. 12, 37 Stat. 569 [U.S. Code, title 48, sec. 1330].)

CROSS-REFERENCES

For laws of United States respecting extradition of persons accused of crime, see U.S. Code, title 18, sections 651 to 668 (appendix, p. 951.)

Extradition of fugitives from Panama, see sections 881 to 892 of this title.

Exclusion and deportation of persons, see title 2, sections 141 and 142.

862. Warrant for arrest of fugitive from State or Territory.—A magistrate may issue a warrant for the apprehension of a person charged in any State or Territory of the United States with having committed treason or felony who flees from justice and is found in the Canal Zone.

CROSS-REFERENCE

Duties of Governor in respect to arrest and delivery of fugitive, upon demand of State or Territory and production of requisite papers, see U.S. Code, title 18, section 662 (appendix, p. 954).

863. Proceedings for arrest and commitment.—The proceedings for the arrest and commitment of a person so charged shall be in all respects similar to those provided in this title for the arrest and commitment of a person charged with a public offense committed in the Canal Zone, except that a certified copy of an instrument found, or other judicial proceedings had against him in the State or Territory in which he is charged to have committed the offense, may be received as evidence before the magistrate.

864. Commitment pending arrest on warrant of Governor.—If, from the examination, it appears that the accused has committed the crime alleged, the magistrate by warrant reciting the accusation must commit the fugitive to the proper custody in that subdivision for such time, to be specified in the warrant, as the magistrate may deem reasonable to permit the arrest of the fugitive, as provided in section 5278 of the Revised Statutes of the United States (U.S. Code, title 18, sec. 662), upon the warrant of the Governor of the Panama Canal, on the demand of the executive authority of the State or Territory in which the fugitive committed the offense, unless he gives bail as provided in the section next following, or until he is legally discharged.

865. Admission to bail pending arrest on warrant of Governor.—The magistrate may admit the person arrested to bail by an undertaking with sufficient sureties and in such sum as the magistrate deems proper, for the appearance of such person before the magistrate at a time specified in the undertaking and for the surrender of such person to arrest upon the warrant of the Governor.

866. **Giving notice of arrest to district attorney.**—Immediately upon the arrest of the person charged, the magistrate must give notice thereof to the district attorney.

867. **Giving of notice by district attorney to State or Territory.**—The district attorney must immediately thereafter give notice to the executive authority of the State or Territory, or to the prosecuting attorney or presiding judge of the court of the city or county within the State or Territory having jurisdiction of the offense, to the end that a demand may be made for the arrest and surrender of the person charged.

868. **Discharge of person unless arrested on warrant of Governor.**—The person arrested must be discharged from custody or bail unless, before the expiration of the time designated in the warrant or undertaking, he is arrested under the warrant of the Governor.

869. **Inquiry by district court into cause of arrest and detention.**—The magistrate must return his proceedings to the district court, which must thereupon inquire into the cause of the arrest and detention of the person charged, and if he is in custody or the time of his arrest has not elapsed, it may:

a. Discharge him from detention;

b. Order his undertaking or bail to be canceled;

c. Continue his detention for a longer time; or

d. Readmit him to bail to appear and surrender himself within a time specified in the undertaking.

870. **Accounts of person employed to bring fugitive back to Canal Zone.**—When the Governor of the Panama Canal demands the surrender to the authorities of the Canal Zone of a fugitive from justice who has been found and arrested in any State or Territory of the United States or in any foreign country, the accounts of the person employed by the Governor to bring back such fugitive must be audited and paid out of the treasury of the Canal Zone.

871. **No fee or reward for procuring return or detention of fugitive.**—No compensation, fee or reward of any kind can be paid to or received by a public officer of the Canal Zone, or other person, for a service rendered in procuring from the Governor the demand mentioned in the next preceding section, or the surrender of the fugitive, or for conveying him to the Canal Zone, or detaining him therein, except as provided in that section.

ARTICLE 3.—EXTRADITION OF FUGITIVES FROM THE REPUBLIC OF PANAMA

Sec.
881. Delivery to Panama of offenders who seek refuge in Canal Zone.
882. Discretion as to delivery of citizen of United States.
883. Delay in delivery of person under accusation or sentence in Canal Zone.
884. Prosecution for graver offense than that for which fugitive was delivered.
885. Requisites of demand for arrest and delivery of fugitive.
886. Telegraphic request for detention in case of urgency.
887. Accomplishment of arrest and detention.
888. Term of detention.
889. Authority of agents of Panama receiving fugitive in Canal Zone.
890. Duty of Canal Zone authorities to facilitate return of fugitive.
891. Delivery of objects found in fugitive's possession.
892. Expense of capture, detention and transportation of fugitive.

881. **Delivery to Panama of offenders who seek refuge in Canal Zone.**—All persons who have been condemned, prosecuted or accused before the courts of the Republic of Panama as authors or accomplices of crimes, transgressions or offenses against the laws of said Republic, who seek refuge in the Canal Zone, shall be, upon apprehension, taken into custody by the authorities of the Canal Zone and delivered to the authorities of the Republic of Panama, upon the demand of the Government of that Republic and compliance with the procedure hereinafter prescribed. (July 5, 1932, ch. 419, sec. 1, 47 Stat. 574 [U.S. Code, title 48, sec. 1330a].)

882. **Discretion as to delivery of citizen of United States.**—The Government of the Canal Zone is at liberty to decline compliance with a demand of the Government of the Republic of Panama for the arrest and delivery to the authorities of said Republic of a fugitive from the justice of the Republic of Panama when said fugitive is a citizen of the United States. The discretion hereby reserved shall be exercised by the Governor of the Panama Canal. (July 5, 1932, ch. 419, sec. 2, 47 Stat. 574 [U.S. Code, title 48, sec. 1330b].)

883. **Delay in delivery of person under accusation or sentence in Canal Zone.**—If the person whose arrest and delivery is demanded should be accused of, or under sentence for, any crime, transgression or offense committed in the Canal Zone, he shall not be delivered to the authorities of the Republic of Panama until he has been acquitted, pardoned, or undergone his sentence pursuant to the provisions of the laws of the Canal Zone. (July 5, 1932, ch. 419, sec. 3, 47 Stat. 574 [U.S. Code, title 48, sec. 1330c].)

884. **Prosecution for graver offense than that for which fugitive was delivered.**—If, in the course of the proceedings in the courts of the Republic of Panama, in the case to which the arrest and delivery appertain, it should appear that probable cause exists for believing the delinquent guilty of another and graver offense against the laws of the Republic of Panama than that which gave rise to the request for his apprehension and delivery, the Government of that Republic may prosecute said fugitive for such other offense after notice to that effect to the Government of the Canal Zone. (July 5, 1932, ch. 419, sec. 4, 47 Stat. 574 [U.S. Code, title 48, sec. 1330d].)

885. **Requisites of demand for arrest and delivery of fugitive.**—The demand for the arrest and delivery of a fugitive from the justice of the Republic of Panama, pursuant to the terms of this article,

will be complied with when made in writing and signed by the Secretary of Foreign Relations of the Republic of Panama, or by his direction, and presented to the Governor of the Panama Canal. If the demand is for a condemned and fugitive criminal, it must be accompanied by a duly certified copy of sentence pronounced by a court of competent jurisdiction, and, as far as possible, a description of the fugitive sought to be reclaimed. (July 5, 1932, c. 419, sec. 5, 47 Stat. 575 [U.S. Code, title 48, sec. 1330e].)

886. **Telegraphic request for detention in case of urgency.**—In case of urgency, where there are reasonable grounds for fearing that the fugitive may avoid apprehension, his detention may be asked for by telegraph. (July 5, 1932, ch. 419, sec. 6, 47 Stat. 575 [U.S. Code, title 48, sec. 1330f].)

887. **Accomplishment of arrest and detention.**—The arrest and detention shall be accomplished in the manner and by the officials prescribed by the laws of the Canal Zone. (July 5, 1932, ch. 419, sec. 6, 47 Stat. 575 [U.S. Code, title 48, sec. 1330f].)

888. **Term of detention.**—Detentions authorized by this article shall not continue longer than fifteen days, during which the procedure for securing the delivery of said fugitive to the authorities of the Republic of Panama shall be completed. (July 5, 1932, ch. 419, sec. 6, 47 Stat. 575 [U.S. Code, title 48, sec. 1330f].)

889. **Authority of agents of Panama receiving fugitive in Canal Zone.**—For the purpose of accomplishing the delivery of the fugitives apprehended and delivered in pursuance of this article the Republic of Panama may send its agent or agents duly authorized to receive said fugitive into the territory of the Canal Zone, but said agent's action and authority shall be limited to receiving such fugitive at the point of departure for return to the Republic of Panama and, at the moment of departure and thenceforth, to exercising the necessary vigilance and restraint to prevent the escape of the person in custody. (July 5, 1932, ch. 419, sec. 7, 47 Stat. 575 [U.S. Code, title 48, sec. 1330g].)

890. **Duty of Canal Zone authorities to facilitate return of fugitive.**—It is hereby made the duty of the authorities of the Canal Zone on the line of transit to provide the persons charged with the conveyance of such fugitives so delivered with all the means necessary to prevent escape and to remove all unlawful obstacles that may hinder or delay the return of such fugitives to the territory of the Republic of Panama. (July 5, 1932, ch. 419, sec. 8, 47 Stat. 575 [U.S. Code, title 48, sec. 1330h].)

891. **Delivery of objects found in fugitive's possession.**—All papers and other objects found in the possession of the fugitive at the time of his detention that refer to the crime, transgression or offense of which the fugitive is accused or convicted shall be delivered to the Government of the Republic of Panama. These papers and objects must be restored after the conclusion of the case if there are third parties who assert a right to or over them. The authorities of the Government of the Canal Zone may provisionally retain said objects and papers so long as they are required for use as evidence

in some other case pending or contemplated in the courts of the Canal Zone, whether such case be related or not to the case wherein the demand for the apprehension and return of the fugitive originated. (July 5, 1932, ch. 419, sec. 9, 47 Stat. 575 [U.S. Code, title 48, sec. 1330i].)

892. Expense of capture, detention and transportation of fugitive.—The expense of capture, detention and transportation of a fugitive from the justice of the Republic of Panama, shall be paid by that Republic; but such expenses shall not include compensation for the services of the judiciary, military or police authorities of the Government of the Canal Zone. (July 5, 1932, ch. 419, sec. 10, 47 Stat. 575 [U.S. Code, title 48, sec. 1330j].)

CHAPTER 27.—PENAL INSTITUTIONS

Sec.
901. Penitentiary at Gamboa.
902. Receipt and detention of convicts at penitentiary.
903. Punishment for injury to prisoner in penitentiary.
904. Transfer of prisoners from one penal institution to another.
905. Bringing prisoner before a court.

Section 901. Penitentiary at Gamboa.—The prison situated at Gamboa is hereby declared to be a penitentiary of and for the Canal Zone.

CROSS-REFERENCES

Execution of judgments of conviction, see sections 511 to 533 of this title.

Rescuing of prisoners, escapes from prison, and aiding and assisting therein, see title 5, sections 201 to 206.

Pardons and reprieves, see title 2, section 261.

902. Receipt and detention of convicts at penitentiary.—The warden or keeper of the penitentiary shall receive, imprison and detain all persons who have been sentenced to imprisonment therein by the district court or by other courts possessing the requisite jurisdiction or by other competent authority.

903. Punishment for injury to prisoner in penitentiary.—The person of a convict sentenced to imprisonment in the penitentiary is under the protection of the law and any injury to his person not authorized by law is punishable in the same manner as if he were not convicted or sentenced.

CROSS-REFERENCE

Willful inhumanity to prisoner, see title 5, section 177.

904. Transfer of prisoners from one penal institution to another.—Prisoners may be transferred from one penal institution to such other penal institution within the Canal Zone as the Governor of the Panama Canal may designate in the following cases:

a. When the room in any penal institution is insufficient for the prisoners confined therein; or

b. When the Governor determines, in the cases of women prisoners or prisoners under eighteen years of age, that the public welfare will best be subserved by imprisonment elsewhere than at Gamboa.

This transfer shall not, however, aggravate or affect the condition of the prisoners in any way, and they shall serve in accordance with their sentences. (Feb. 21, 1933, ch. 110, sec. 118 [447], 47 Stat. 901.)

905. Bringing prisoner before a court.—When it is necessary to have a person who is imprisoned in a penal institution brought before a court, an order for that purpose may be made by the court and executed by the officer of the court where it is made.

CROSS-REFERENCE

Where material witness is prisoner, see section 661 of this title.

TITLE 7.—THE JUDICIARY

Ch.	Sec.	Ch.	Sec.
1. Magistrates' Courts	1	3. Circuit Court of Appeals, Fifth Circuit	61
2. District Court	21		

CROSS-REFERENCE

General provisions respecting courts of justice, see title 4, sections 19 to 34.

CHAPTER 1.—MAGISTRATES' COURTS

Sec.
1. Establishment of magistrates' courts.
2. Jurisdiction in general.
3. Preliminary hearings in charges of offenses beyond jurisdiction.
4. Appointment, term and compensation of magistrates, constables and other employees.
5. Oath of magistrates and constables.
6. Rules governing magistrates' courts.
7. Appeals to district court authorized.

Section 1. Establishment of magistrates' courts.—In each town established under the provisions of section 4 of title 2, there shall be a magistrate's court. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1342].)

2. Jurisdiction in general.—A magistrate's court shall have exclusive original jurisdiction coextensive with the subdivision in which it is situated of:

a. All civil actions in which the principal sum claimed does not exceed $500;

b. All criminal actions wherein the punishment that may be imposed does not exceed a fine of $100, or imprisonment for thirty days, or both; and

c. All actions involving the forcible entry and detainer of real estate. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1342].)

CROSS-REFERENCES

Powers and duties of magistrates in respect to criminal proceedings, see title 6, sections 111 to 115.

Trial of offenses in magistrates' courts, see title 6, sections 121 to 127.

3. Preliminary hearings in charges of offenses beyond jurisdiction.—The magistrates' courts shall hold preliminary hearings in all charges of felony and in charges of misdemeanor in which the punishment that may be imposed is beyond the jurisdiction granted to the magistrates' courts, and commit or bail in bailable cases to the district court; but this provision shall not deprive the district attorney of the right to present an information to the district court after a defendant has been discharged by a magistrate's court. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1342].)

CROSS-REFERENCE

Conduct of preliminary hearings, see title 6, sections 141 to 150.

4. Appointment, term and compensation of magistrates, constables and other employees.—A sufficient number of magistrates and constables, who must be citizens of the United States, and other employees necessary to conduct the business of such courts, shall be appointed by the President or by his authority for terms of four years and until their successors are appointed and qualified, and the compensation of such persons shall be fixed by the President or by his authority. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1342].)

5. Oath of magistrates and constables.—Before assuming office the magistrates and constables shall take and subscribe an oath of office before a notary public of the Canal Zone to the effect that they will faithfully and impartially discharge the duties of their respective offices. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1342].)

6. Rules governing magistrates' courts.—Rules shall be established by order of the President governing magistrates' courts and prescribing:

a. The duties of magistrates and constables;
b. Oaths and bonds;
c. The times and places of holding magistrates' courts; and
d. The disposition of fines, costs and forfeitures. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1342].)

CROSS-REFERENCES

Constables as peace officers, see title 6, section 84.
Powers and duties of magistrates in relation to criminal proceedings, in general, see title 6, sections 111 to 115.

7. Appeals to district court authorized.—Appeals from the judgments and rulings of the magistrates' courts to the district court are authorized in all civil and criminal cases. (Aug. 24, 1912, ch. 390, sec. 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, sec. 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, sec. 1, 47 Stat. 814 [U.S. Code, title 48, sec. 1343].)

CROSS-REFERENCES

Appeals in civil cases, see title 4, sections 881 to 891.
Appeals in criminal cases, see title 6, sections 131 to 135.

CHAPTER 2.—DISTRICT COURT

Sec.
21. Establishment and designation of district court.
22. Divisions of district court.
23. Jurisdiction of district court, in general.
24. Law and equity jurisdiction need not be separately exercised.
25. Admiralty jurisdiction, practice and procedure.
26. Jurisdiction, practice and procedure in cases of offenses on high seas.
27. Rules of district court.
28. Terms of district court.
29. District judge; special district judge.
30. Compensation of district judge.
31. Authority of district judge to make certain orders when absent.
32. Communication of such orders to clerk by mail and by radio or other means.
33. Jury trial.
34. Selection, summoning and serving of jurors.
35. Compensation of jurors.
36. Clerk of court; deputy clerks and clerical assistants.
37. District attorney.
38. Duties of district attorney generally.
39. Assistant district attorneys; clerks and other employees.
40. Marshal and deputy marshals.
41. Powers and duties of marshal generally.
42. Appointment, term, leave and residence of district judge, attorney and marshal.
43. Public defender.

Section 21. Establishment and designation of district court.—There shall be in the Canal Zone one district court, to be known and designated as the United States District Court for the District of the Canal Zone. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1344].)

CROSS-REFERENCES

Seal of district court, see title 4, section 24.
District court dockets, see title 4, section 26; and title 6, section 841.

22. Divisions of district court.—There shall be two divisions of the district court, one including Balboa and the other including Cristobal, and the boundaries of the divisions shall be determined by the President. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1344].)

23. Jurisdiction of district court, in general.—The district court shall have jurisdiction of:

a. All criminal actions wherein punishment that may be imposed exceeds a fine of $100 or thirty days' imprisonment or both;

b. All cases in equity;

c. All cases in admiralty;

d. All actions for divorce and annulment of marriage;

e. All actions at law involving principal sums exceeding $500;

f. All appeals from judgments rendered in the magistrates' courts;

g. All actions and proceedings involving laws of the United States applicable to the Canal Zone; and

h. All other matters and proceedings wherein jurisdiction is conferred by the codes of law and procedure of the Canal Zone. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1345].)

CROSS-REFERENCES

Jurisdiction of actions for injuries to vessels or passengers in passing through locks, see title 2, section 10.

Jusisdiction to compel attendance of witnesses and production of papers before Canal officers, see title 2, section 43.

Jurisdiction of actions for recovery of certain fines under vessel inspection laws, see title 2, section 156.

Jurisdiction of recovery of fines under law relative to radio equipment on certain vessels, see title 2, section 362.

Jurisdiction in cases arising under patent, trade mark and copyright laws, see title 3, section 391.

24. Law and equity jurisdiction need not be separately exercised.—It shall not be necessary in the district court to exercise separately the law and equity jurisdiction vested in that court. (Aug. 24, 1912, ch. 390, sec. 9, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 3, 42 Stat. 1006; Feb. 16, 1933, ch. 91, sec. 3, 47 Stat. 817 [U.S. Code, title 48, sec. 1356].)

CROSS-REFERENCE

One form of civil action only, see title 4, section 71.

25. Admiralty jurisdiction, practice and procedure.—The jurisdiction in admiralty conferred upon the district court and the district judge shall be the same as is exercised by the United States district courts and the United States district judges, and the practice and procedure shall be the same as in the United States district courts. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1345].)

26. Jurisdiction, practice and procedure in cases of offenses on high seas.—In addition to the jurisdiction specifically conferred on it by certain Acts of Congress, the district court shall have jurisdiction of offenses under the criminal laws of the United States when such offenses are committed upon the high seas beyond the territorial limits of the Canal Zone, on vessels belonging in whole or in part to the United States, or any citizen thereof or any corporation created by or under the laws of the United States or of any State, Territory or District thereof, and the offenders are found in the Canal Zone or are brought into the Canal Zone after the commission of the offense;

But this provision shall not be construed to deprive the district courts of the United States of any jurisdiction now provided by law.

The procedure and practice in such actions shall be the same as in other criminal actions tried under the laws of the Canal Zone. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U. S. Code, title 48, sec. 1346].)

CROSS-REFERENCES

Laws of the United States relative to offenses on high seas, see U.S. Code, title 18, sections 451 to 467 and 481 to 502 (appendix, p. 938).

Jurisdiction specifically conferred by acts of Congress:

Offenses in respect to injuries to fortifications, see U.S. Code, title 18, section 96 (appendix, p. 905).

Offenses under the Espionage Act, see U.S. Code, title 18, sections 39 and 574, and title 50, section 39 (appendix, pp. 904, 947, 1012).

Offenses under the White Slave Traffic Act, see U.S. Code, title 18, section 401 (appendix, p. 936).

27. Rules of district court.—The rules of the district court shall be prescribed by the district judge. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1344].)

28. Terms of district court.—Terms of the district court shall be held in the Balboa and Cristobal divisions at such times as the judge may designate by order. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1344].)

29. District judge; special district judge.—There shall be one district judge of the district; but the President may appoint a special district judge, to act when necessary:

a. During the absence of the district judge from the Canal Zone; or

b. During any period of disability or disqualification from sickness or otherwise to discharge his duties.

The special district judge shall receive the same rate of compensation and the same mileage and per diem as is paid to the district judge. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, secs. 1344, 1350].)

CROSS-REFERENCE

Disqualification of judges, see title 4, section 28.

30. Compensation of district judge.—The district judge shall receive the same salary as is allowed to United States district judges and when holding court away from home shall be allowed the same mileage and per diem as is allowed to United States district judges. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1348].)

31. Authority of district judge to make certain orders when absent.—When no special judge has been appointed and the district judge is absent from the Canal Zone and is in the United States or any of its Territories or possessions, he may make in the place where he is any orders which could have been made in chambers on the Canal Zone and which in his discretion may be necessary, and orders so made shall have the same force and effect as though made in chambers on the Canal Zone. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1344a].)

32. Communication of such orders to clerk by mail and by radio or other means.—Whenever an order is made as provided in the next preceding section the judge shall forward it to the clerk of the court by mail and shall also communicate its substance to the clerk by radio or other means. Upon the receipt of the message the clerk shall proceed to have the order carried into effect as fully as though the proceedings were had on a written order made by the judge in chambers.

The judge shall make such rules respecting such radio procedure, including the fixing and payment of the cost thereof, as may in his discretion be necessary. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1344a].)

33. **Jury trial.**—A jury shall be had in any civil or criminal case originating in the district court, on the demand of either party, subject to such limitations as may be contained in any codes enacted for the Canal Zone. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Dec. 29, 1926, ch. 19, sec. 1, 44 Stat. 924; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1347].)

CROSS-REFERENCES

Right to jury trial, see also title 4, section 441; and title 6, section 302.
Number of jurors, see title 6, section 303.
Formation of jury, see title 4, sections 451 to 454; and title 6, sections 331 to 357.

34. **Selection, summoning and serving of jurors.**—The district judge shall provide for the selection, summoning and serving of jurors from among the citizens of the United States subject to jury duty to serve in the division of the district in which such jurors reside. Any citizen of the United States who is employed by the Panama Canal or the Panama Railroad Company within the Canal Zone, and who resides in a residence owned by the Panama Canal or Panama Railroad Company in territory contiguous to the Canal Zone shall for the purpose of this section be deemed to reside in the division nearest his place of residence. (Aug. 24, 1912, ch. 390, sec 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat., 1005; Dec. 29, 1926, ch. 19, sec. 1, 44 Stat. 924; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1347].)

35. **Compensation of jurors.**—Jurors who are employed by the Panama Canal or the Panama Railroad Company shall receive their full pay for time attending court and shall not receive any compensation from the court for their attendance as jurors. Any juror who is not an employee of the Panama Canal or the Panama Railroad Company shall be allowed a jury fee of $5 per diem during the time of his attendance. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Dec. 29, 1926, ch. 19, sec. 1, 44 Stat. 924; Feb. 16, 1933, ch. 91, sec 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1347].)

36. **Clerk of court; deputy clerks and clerical assistants.**—The district judge shall appoint the clerk of the district court and the President may authorize the appointment of such deputy clerk or deputy clerks and clerical assistants to the judge and the clerk as he shall deem necessary. All of such officers and employees shall receive such compensation as the President shall prescribe. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005, Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1349].)

CROSS-REFERENCES

Clerk as ex officio registrar of property, see title 4, section 967.
Duties of clerk in general, see title 6, sections 841 to 843.

37. District attorney.—There shall be a district attorney for the Canal Zone, whose compensation shall be fixed by the President. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1351].)

38. Duties of district attorney generally.—The district attorney shall:

a. Conduct all legal proceedings, civil and criminal, for the Government of the United States and for the Government of the Canal Zone; and

b. Advise the Governor of the Panama Canal, upon request of the latter. on matters pertaining to the office of Governor. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1351].)

CROSS-REFERENCE

Duties of district attorney in relation to offenses under the Espionage Act, see U.S. Code, title 18, section 574; and title 50, section 39 (appendix, pp. 947, 1012).

39. Assistant district attorneys; clerks and other employees.—The district attorney shall be allowed such assistant district attorneys, clerks, and other employees as the President may authorize, and all of such officers and employees shall receive such compensation as the President shall prescribe. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1351].)

40. Marshal and deputy marshals.—There shall be a marshal of the district whose compensation shall be fixed by the President. The marshal shall be allowed such deputy marshals as the President may authorize, and such deputies shall receive such compensation as the President shall prescribe. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48, sec. 1352].)

41. Powers and duties of marshal generally.—The marshal shall:

a. Attend the district court when sitting and execute throughout the district all lawful precepts directed to him and issued under the authority of the United States or of the Government of the Canal Zone, except process returnable to the magistrates' courts; and

b. Perform such other duties, not inconsistent with law, as may be prescribed from time to time by the President.

The marshal may command all necessary assistance in the execution of his duty. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370. sec. 2. 42 Stat. 1005; Feb. 16, 1933, ch. 91, sec. 2. 47 Stat. 815 [U.S. Code, title 48, sec. 1352].)

42. Appointment, term, leave and residence of district judge, attorney and marshal.—The district judge, district attorney and marshal shall:

a. Be appointed by the President by and with the advice and consent of the Senate, for terms of four years each;

b. Continue to discharge the duties of their respective officers, unless sooner removed by the President, until their successors are appointed and qualify in their stead;

c. Be allowed sixty days' leave of absence each year, with pay, under such regulations as the President may from time to time prescribe; and

d. Reside within the Canal Zone during their terms of office. (Aug. 24, 1912, ch. 390, sec. 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 2, 42 Stat. 1005; Dec. 29, 1926, ch. 19, sec. 2, 44 Stat. 924; Feb. 16, 1933, ch. 91, sec. 2, 47 Stat. 815 [U.S. Code, title 48; sec. 1353].)

43. Public defender.—The Governor of the Panama Canal shall appoint a duly qualified member of the bar of the Canal Zone as a public defender, whose duty it shall be to represent, in the district court, any person charged with the commission of a crime within the original jurisdiction of that court who is unable to employ counsel for his defense. The public defender shall receive a salary of $1,200 per year, together with such of the privileges of a Canal Zone employee as the Governor may grant. (July 5, 1932, ch. 426, secs. 1 and 2, 47 Stat. 578.)

CHAPTER 3.—CIRCUIT COURT OF APPEALS, FIFTH CIRCUIT

Sec.
61. Appellate jurisdiction.
62. Appellate practice and procedure.

Section 61. Appellate jurisdiction.—The United States Circuit Court of Appeals for the Fifth Circuit shall have jurisdiction, in all cases within the original trial jurisdiction of the district court:

a. To review, revise, modify, reverse or affirm the final judgments and decrees of the district court, and to render such judgments as in the opinion of the said appellate court should have been rendered by the trial court; and

b. To review the interlocutory orders or decrees of the district court which are specified in section 129 of the United States Judicial Code (U.S. Code, title 28, sec. 227). (Aug. 24, 1912, ch. 390, sec. 9, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 3, 42 Stat. 1006; Feb. 16, 1933, ch. 91, sec. 3, 47 Stat. 817 [U.S. Code, title 48, sec. 1356]; Apr. 11, 1928, ch. 354, sec. 1, 45 Stat. 422 [U.S. Code, title 28, sec. 225].)

CROSS-REFERENCE

Appellate jurisdiction, see also U.S. Code, title 28, section 225 (appendix, p. 982).

62. Appellate practice and procedure.—Such appellate jurisdiction, subject to the right of review by the Supreme Court of the United States as in other cases authorized by law, may be exercised by the Circuit Court of Appeals in the same manner, under the same regulations, and by the same procedure as nearly as practicable as is done in reviewing the final judgments and decrees of the district courts of the United States. (Aug. 24, 1912, ch. 390, sec. 9, 37 Stat. 565; Sept. 21, 1922, ch. 370, sec. 3, 42 Stat. 1006; Feb. 16, 1933, ch. 91, sec. 3, 47 Stat. 817 [U.S. Code, title 48, sec. 1356].)

Cross-Reference

Power of Supreme Court to prescribe rules of practice and procedure with respect to proceedings after verdict in criminal cases, see U.S. Code, title 28, section 723a (appendix, p. 983).

Time for application for appeal, see U.S. Code, title 28, section 230 (appendix, p. 983).

Allowance of appeals, see U.S. Code, title 28, section 228 (appendix, p. 983).

Approved, June 19, 1934.

APPENDIX

CONTAINING CERTAIN TREATIES AND GENERAL LAWS OF THE UNITED STATES APPLICABLE IN OR RELATING TO THE CANAL ZONE OR THE PANAMA CANAL

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GREAT BRITAIN—1850

CONVENTION AS TO SHIP CANAL CONNECTING ATLANTIC AND PACIFIC OCEANS[1]

(Clayton-Bulwer Treaty)

Concluded April 19, 1850; ratification advised by the Senate May 22, 1850; ratified by the President May 23, 1850; ratifications exchanged July 4, 1850; proclaimed July 5, 1850

ARTICLES

I. Declaration as to control of canal, occupation of territory, and commercial advantages.
II. Neutrality of canal in case of war.
III. Protection of construction.
IV. Mutual influence to facilitate construction.
V. Guarantee of neutrality.
VI. Cooperation of other States.
VII. Mutual encouragement to speedy construction.
VIII. Protection to other communications.
IX. Ratification.

The United States of America and Her Britannic Majesty, being desirous of consolidating the relations of amity which so happily subsist between them by setting forth and fixing in a Convention their views and intentions with reference to any means of communication by ship canal which may be constructed between the Atlantic and Pacific Oceans by the way of the River San Juan de Nicaragua and either or both of the Lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean, the President of the United States has conferred full powers on John M. Clayton, Secretary of State of the United States, and Her Britannic Majesty on the Right Honorable Sir Henry Lytton Bulwer, a member of Her Majesty's Most Honorable Privy Council, Knight Commander of the Most Honorable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said Plenipotentiaries, having exchanged their full powers, which were found to be in proper form, have agreed to the following articles:

Article I.

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any State or people for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess, with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

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[1] This Convention is superseded by the Hay-Pauncefote Treaty, p. 837.

Article II.

Vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempted from blockade, detention, or capture, by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal as may hereafter be found expedient to establish.

Article III.

In order to secure the construction of the said canal, the contracting parties engage that, if any such canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local government or governments through whose territory the same may pass, then the persons employed in making the said canal and their property used or to be used for that object, shall be protected, from the commencement of the said canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure, or any violence whatsoever.

Article IV.

The contracting parties will use whatever influence they respectively exercise with any State, States, or Governments possessing, or claiming to possess, any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such States or Governments to facilitate the construction of the said canal by every means in their power; and, furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

ARTICLE V.

The contracting parties further engage that when the said canal shall have been completed they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either Government, if both Governments or either Government should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandise, or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

ARTICLE VI.

The contracting parties in this convention engage to invite every State with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated. And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans, for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass, between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

ARTICLE VII.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention; and if any persons or company should already have, with any State through which the proposed ship canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object, and the said persons or company shall, moreover, have made preparations and expended time, money, and trouble on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons, or company to the protection of the Governments of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprize, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

Article VIII.

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

Article IX.

The ratifications of this convention shall be exchanged at Washington within six months from this day, or sooner if possible.

In faith whereof we, the respective Plenipotentiaries, have signed this convention, and have hereunto affixed our seals.

Done at Washington the nineteenth day of April, anno Domini one thousand eight hundred and fifty.

[SEAL.] JOHN M. CLAYTON.
[SEAL.] HENRY LYTTON BULWER.

GREAT BRITAIN—1901

TREATY TO FACILITATE THE CONSTRUCTION OF A SHIP CANAL

(HAY-PAUNCEFOTE TREATY)

Concluded November 18, 1901; ratification advised by Senate December 16, 1901; ratified by President December 26, 1901; ratifications exchanged February 21, 1902; proclaimed February 22, 1902

[32 Stat. L., 1903]

ARTICLES

I. Convention of April 19, 1850, superseded.
II. Construction of canal.
III. Rules of neutralization.
IV. Change of sovereignty.
V. Ratification.

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the Convention of the 19th April, 1850, commonly called the Clayton-Bulwer Treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that Convention, have for that purpose appointed as their Plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Honourable Lord Pauncefote, G.C.B., G.C.M.G., His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

Who, having communicated to each other their full powers which were found to be in due and proper form, have agreed upon the following Articles:—

ARTICLE I.

The High Contracting Parties agree that the present Treaty shall supersede the afore-mentioned Convention of the 19th April, 1850.[2]

ARTICLE II.

It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money to individuals or Corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present Treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

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[2] For Convention of Apr. 19, 1850, see p. 833.

ARTICLE III.

The United States adopts, as the basis of the neutralization of such ship canal, the following Rules, substantially as embodied in the Convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nation observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the Regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same Rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this Article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than twenty-four hours at any one time, except in case of distress, and in such case, shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this Treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

ARTICLE IV.

It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the High Contracting Parties under the present Treaty.

ARTICLE V.

The present Treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective Plenipotentiaries have signed this Treaty and thereunto affixed their seals.

Done in duplicate at Washington, the 18th day of November, in the year of Our Lord one thousand nine hundred and one.

JOHN HAY. [SEAL.]
PAUNCEFOTE. [SEAL.]

PANAMA—1903

CONVENTION FOR THE CONSTRUCTION OF A SHIP CANAL

(HAY-BUNAU VARILLA TREATY)

Concluded November 18, 1903; ratification advised by the Senate February 23, 1904; ratified by President February 25, 1904; ratifications exchanged February 26, 1904; proclaimed February 26, 1904

[33 Stat. L. 2234]

ARTICLES

I. Independence of Panama.
II. Use, occupation, and control of zone and additional lands.
III. Rights, power, and authority within zone and auxiliary lands and waters.
IV. Subsidiary right to use of waters and water-courses in Panama.
V. Monopoly for systems of interoceanic communication by canal or railroad.
VI. Preservation of private property rights; rights of way; settlement of damages to private property.
VII. Acquisition of property, and sanitation, systems of sewers, water works, and public order, in and adjacent to Panama and Colon.
VIII. Property of New Panama Canal Company and Panama Railroad Company.
IX. Freedom of ports from certain taxes or charges upon vessels, et cetera; Panamanian customs houses and guards; use of towns and harbors of Panama and Colon.
X. Exemptions of Canal, auxiliaries, and employees from taxation by Panama.
XI. Transmission of official dispatches of Panama over Canal telegraph and telephone lines.
XII. Immigration and free access of Canal employees.
XIII. Freedom from customs duties of importations by United States into Canal Zone.
XIV. Compensation to Panama for rights granted.
XV. Establishment of joint commission.
XVI. Extradition between Canal Zone and Panama.
XVII. Use of ports of Panama as places of refuge for vessels.
XVIII. Neutrality of Canal.
XIX. Rights of Panama in respect to free transportation over Canal or railway.
XX. Modification by Panama of existing treaties containing incompatible provisions.
XXI. Freedom of rights granted by Panama from anterior liabilities or concessions.
XXII. Renunciation by Panama of rights under concessionary contracts.
XXIII. Protection of Canal, vessels, and auxiliaries; fortifications.
XXIV. Effect of change in government, laws or treaties of Panama.
XXV. Sale or lease to United States of lands for naval or coaling stations.
XXVI. Ratification.

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific oceans, and the Congress of the United States of America having passed an act approved June 28, 1902,[3] in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries,—

The President of the United States of America, John Hay, Secretary of State, and

The Government of the Republic of Panama, Philippe Bunau-Varilla, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, thereunto specially empowered by said government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

Article I.

The United States guarantees and will maintain the independence of the Republic of Panama.

Article II.

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant.[4] The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

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[3] Spooner Act, June 28, 1902, ch. 1302, 32 Stat. 481.

[4] Possession of canal properties of French company was taken May 4, 1904 (1904 Ann. Rept. 36); on May 19, 1904, the Governor of the Canal Zone announced the occupation of the Canal Zone by the United States; by the Davis agreement, dated June 15, 1904 (1904 Ann. Rept. 78 and 91–93) the Republic of Panama formally delivered the land included within the Canal Zone to the United States, the boundaries being defined in the aforesaid agreement. See also Boundary Convention, p. 848.

ARTICLE III.

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

ARTICLE IV.

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or water-power or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

ARTICLE V.

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific ocean.

ARTICLE VI.

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation and protection of the said Canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint Commission[5] appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said Canal or the Panama railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

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[5] Art. XV, p. 845, provides for establishment of joint commission. Claims Convention, Art. 1, p. 857, provides for the continuation of the hearing and decision of claims under this article by the joint commission provided for herein.

ARTICLE VII.

The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights or other properties necessary and convenient for the construction, maintenance, operation and protection of the Canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal and railroad. All such works of sanitation, collection and disposition of sewage and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents or nominees shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of fifty years and upon the expiration of said term of fifty years the system of sewers and water works shall revert to and become the properties of the cities of Panama and Colon respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances whether of a preventive or curative character prescribed by the United States and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same.

The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

ARTICLE VIII.

The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the

New Panama Canal Company and the Panama Railroad Company as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties and concessions as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in Article II of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the Canal shall revert to the Republic of Panama except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof.

ARTICLE IX.

The United States agrees that the ports at either entrance of the Canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected custom house tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation and protection of the main Canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the Canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and for other works pertaining to the Canal.[6]

ARTICLE X.

The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works, tugs and other vessels employed in the service of the Canal, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the Canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the Canal and railroad and auxiliary works.

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[6] See also Art. XVII, p. 845.

ARTICLE XI.

The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

ARTICLE XII.

The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the Canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said Canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

ARTICLE XIII.

The United States may import at any time into the said zone and auxiliary lands, free of customs duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation and protection of the Canal and auxiliary works, and all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

ARTICLE XIV.

As the price or compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars ($10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars ($250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

But no delay or difference of opinion under this Article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

ARTICLE XV.

The joint commission referred to in Article VI shall be established as follows:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the Commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments who shall render the decision. In the event of the death, absence, or incapacity of a Commissioner or Umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the Commission or by the umpire shall be final.

ARTICLE XVI.

The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.[7]

ARTICLE XVII.

The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the Canal enterprise, and for all vessels passing or bound to pass through the Canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.[8]

ARTICLE XVIII.

The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section I of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.[9]

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[7] Extradition of fugitives from Panama who seek refuge in Canal Zone, see Canal Zone Code, title 6, sections 881 to 892; see also title 6, section 861.

[8] See Art. IX, p. 843.

[9] For Treaty of Nov. 18, 1901, see p. 837.

Article XIX.

The Government of the Republic of Panama shall have the right to transport over the Canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

Article XX.

If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens and subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

Article XXI.

The rights and privileges granted by the Republic of Panama to the United States in the preceding Articles are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other Governments, corporations, syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama and not to the United States for any indemnity or compromise which may be required.

Article XXII.

The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the Canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned party and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama under any contracts or concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama Canal Company.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

Article XXIII.

If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

Article XXIV.

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation of states, so as to merge her sovereignty or independence in such Government, union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

Article XXV.

For the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

Article XXVI.

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Washington the 18th day of November in the year of our Lord nineteen hundred and three.

John Hay [seal]
P. Bunau Varilla [seal]

PANAMA—1914

BOUNDARY CONVENTION

Signed at Panama September 2, 1914; ratification advised by the Senate October 22, 1914; ratified by the President January 4, 1915; ratified by Panama February 8, 1915; ratifications exchanged at Panama February 11, 1915; proclaimed February 18, 1915

[38 Stat. L., 1893]

ARTICLES

I. Boundary line of Canal Zone to remain as fixed and as herein modified.
II. Territorial rights of the United States.
III. Describes boundary line.
IV. Limits of harbors of city of Panama and Ancon.
V. Boundary between city of Colon and the Canal Zone; site of United States battery.
VI. Boundaries of city of Colon.
VII. Panamanian easement for vessels trading with city of Colon; wharfage and other privileges.
VIII. Panama to maintain "Sabanas Road."
IX. Railway rights across territory transferred.
X. Preserves rights heretofore acquired.
XI. Employment of Panamanian citizens.
XII. Preserves jurisdiction of pending legal cases.
XIII. Ratification.

Whereas, Gen. George W. Davis, then Governor of the Canal Zone, on behalf of the United States of America, and Messrs. Tomás Ariás and Ramón Valdés López, then Secretary of Foreign Affairs and Attorney General, respectively, of the Republic of Panama, acting on behalf of that Republic, entered into an agreement on the 15th day of June, 1904, by the terms of which the Republic of Panama delivered over to the United States of America, the use, occupation, and control in perpetuity of the zone of land ten miles in width described and mentioned in articles II and III of the Canal Treaty between the United States of America and the Republic of Panama, dated November 18, 1903,[10] and the boundary lines of said zone, as well as those of the cities of Panama and Colon and their adjacent harbors, were subsequently located upon the ground and monumented:

And, whereas, the President of the Republic of Panama, by decree number 46 of May 17, 1912, delivered over to the United States the use, occupation, and control of the areas of land to be covered by the waters of Lake Gatun and all that part of the shores of the lake up to an elevation of one hundred feet above sea level, in conformity with articles II and III of said Canal Treaty.

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[10] For Arts. II and III of said treaty, see p. 840.

And whereas, since the promulgation of said decree of May 17, 1912, the United States, in conformity with the said articles of said Treaty, have taken over the use, occupation, and control of the islands in said Lake Gatun and the peninsulas bordering on said lake to which there is no access except from said lake or from lands within the jurisdiction of the Canal Zone;

Now, therefore, the Government of the United States and the Republic of Panama being desirous to establish permanently the boundary lines of the above-mentioned lands and waters so taken over by the United States, to that end have resolved to enter into the following agreement, for which purpose the President of the United States of America has commissioned His Excellency William Jennings Price, Envoy Extraordinary and Minister Plenipotentiary of the United States to the Government of Panama, and the President of the Republic of Panama has commissioned His Excellency Ernesto T. Lefevre, Secretary of State in the office of Foreign Affairs of the Republic of Panama, who, having exchanged their respective full powers, have entered into the following boundary convention:

I.

It is agreed that the boundary lines of the zone of land of ten miles in width described in article II of the said Canal Treaty shall remain as defined and established by the agreement of June the 15th, 1904, above mentioned, and subsequently located on the ground and monumented as shown by exhibit "A" accompanying this Convention, with the modifications hereinafter set out in respect to the cities of Panama and Colon and their adjacent harbors.

II.

In conformity with articles II and III of said Treaty the rights of the United States to the use, occupation, and control of the areas to be covered by the waters of Gatun Lake and all that part of the shores of the lake up to an elevation of one hundred feet above mean sea level, and the islands in said lake is hereby recognized, and in like manner the right of the United States to the use, occupation, and control of the peninsulas bordering on said lake to which there is no access except over lands of the Canal Zone or from the waters of Gatun Lake, is hereby recognized.

The one hundred feet contour line above referred to, as well as the peninsulas above mentioned, shall be conveniently monumented and marked upon the ground by the United States, with the intervention of a representative or representatives of the Republic of Panama designated for that purpose, and sketched upon a special map.

III.

It is agreed that the permanent boundary line between the City of Panama and the Canal Zone shall be as follows:

Beginning at a concrete monument located above high water mark on the shore of Panama Bay, south of the Balboa Road on the slope of the headland called "Punta Mala," and north thirty-two degrees and thirty minutes west (N. 32° 30′ W.) and one hundred and fifty (150) meters from about the center of an island called "Gavilan."

From the above concrete monument (marked "A" on the map) the boundary line runs north twenty degrees and two minutes east (N. 20° 2′ E.) six hundred and thirty-three and seven-tenths (633.7) meters to a concrete monument (marked "B" on the map) located at the intersection of the easterly line of the Zone boundary road, and the northerly line of the road leading from Panama to Balboa; thence north thirty-six degrees and forty-two minutes east (N. 36° 42′ E.) nine hundred and sixty-six and eighty-five hundredths (966.85) meters to a concrete monument (marked "C" on the map) on the northerly side of the road leading to Ancon Hospital grounds; thence north three degrees and nineteen minutes east (N. 3° 19′ E.) one hundred and forty-eight and forty-six one-hundredths (148.46) meters to an iron rail property monument; thence north eight degrees and fourteen minutes, and forty seconds west (N. 8° 14′ 40″ W.) one hundred and fifty-one and thirty-three one-hundredths meters (151.33) to a point; thence north thirty-seven degrees and forty-five minutes east (N. 37° 45′ E.) fourteen and thirty-three one-hundredths meters to a point in the road on the present boundary line; thence along said present boundary north no degrees and forty-seven minutes west (N. 0° 47′ W.) sixty-six and forty-four one-hundredths meters (66.44) to a point; thence north seventy-six degrees and fifty-nine minutes east (N. 76° 59′ E.) forty-two and forty-five one-hundredths (42.45) meters to a point; thence south seventy-two degrees and eleven minutes east (S. 72° 11′ E.) one hundred and fifty-nine and twenty-seven one-hundredths (159.27) meters to a point near Calidonia Bridge; thence north three degrees and eight minutes east (N. 3° 8′ E.) crossing the Panama Railroad Company's tracks seventy-seven and three-tenths (77.3) meters to a point twelve and two-tenths (12.2) meters from the center line of the main track of the said Panama Railroad; thence parallel to the said railroad in a north-westerly direction, two hundred and ninety and five-tenths (290.5) meters to a point on the present boundary line; thence north forty-nine degrees, thirteen minutes and ten seconds west (N. 49° 13′ 10″ W.) and one hundred and sixty-five and thirty-seven one-hundredths (165.37) meters to an iron rail monument, twelve and three-tenths meters from the center of the main line track of the Panama Railroad; thence north forty-six degrees, thirty-nine minutes and thirty seconds west (N. 46° 39′ 30″ W.) two hundred and twenty and four one-hundredths (220.04) meters to a Panama Railroad boundary monument twenty-two and one-tenth (22.1) meters from the center line of Panama Railroad main line track; thence north forty-nine degrees and fourteen minutes west (N. 49° 14 W.) and parallel with the Panama Railroad track two hundred and ninety and thirty-six one-hundredths (290.36) meters to Rio Curundu; thence following the course of Rio Curundu upstream to a point (marked "E" on the map) where the said Rio Curundu is intersected by a straight line drawn through the point of intersection on the canal axis (marked "Cocoli" on the map) perpendicular to that part of the Canal axis of A. D. 1906 which extends in a straight line southeasterly from the said point marked " Cocoli " to the point of intersection (marked " Bay " on the map) the former point of intersection being situated between Miraflores and Corozal, and the latter point in Ancon Harbor; thence from " E " north sixty-three degrees and thirty minutes east (N. 63° 30′ E.) two thousand and eight and six-tenths (2,008.6) meters to a concrete monument (marked " F " on the map) on the present boundary between the Canal Zone and the Republic of Panama; thence along this boundary south twenty-six degrees and thirty-four minutes east (S. 26° 34′ E.) about four thousand seven hundred and forty-four and five-tenths (4,744.5) meters to monument No. 99 and thence continuing on this line to the shore of Panama Bay at low water mark; thence following the mean low water line around the shore of Panama Bay to a point on the boundary line between Panama Harbor and Ancon Harbor; thence north seventy-two degrees, fourteen minutes west (N. 72° 14′ W.) to a monument "A," the point of beginning, except that the entire area of the middle island on the map called Las Tres Hermanas shall be under the jurisdiction of the United States of America.

Points "A," " B " and " C " above referred to, are the same points mentioned in the original agreement between the Government of the Republic of Panama and the Canal Zone Government, dated June 15, 1904.

All bearings in this description and on the map mentioned above are referred to true meridian and all coordinates are in accordance with the Panama-Colon Datum.

The Government of Panama agrees that the portion of the roadway now existing between the Ancon Post Office and the Tivoli Dispensary and connecting the Tivoli Road with the roads leading to Balboa and the Ancon Hospital grounds, which will fall within Panaman jurisdiction as a result of the boundary lines established in accordance with the foregoing description, will be kept open and of the same grade as same now is and will be maintained in good serviceable condition by the said Government of Panama so that it will afford a free, uninterrupted and unobstructed permanent public thoroughfare, unless in the future provided otherwise by the mutual agreement of the chief executive authorities of the Republic of Panama and the Panama Canal.

IV.

It is agreed that the harbor of the City of Panama shall include the maritime waters in front of the City of Panama lying to the north and east of a line beginning at a concrete monument set on " Punta Mala " marked "A" on the map already referred to in this Convention, and running south seventy-two degrees and fourteen minutes east (S. 72° 14′ E.) through the middle island of the three islands known as " Las Tres Hermanas," but excluding the said middle island, and extending three marine miles from mean low water mark at Punta Mala; and that the harbor of Ancon shall include the waters lying south and west of said line, but including the said middle island which shall be deemed to be within the harbor of Ancon. The said middle island hereby included within the harbor of Ancon is situated about south twelve degrees, thirty minutes west (S. 12° 30′ W.) eight hundred and fifty-six (856) meters from the point of Las Bovedas and lies in latitude north eight degrees, fifty-six minutes (N. 8° 56′) plus one thousand and fifty-eight and eighty-eight hundredths (1,058.88) meters and longitude west seventy-nine degrees, thirty-two minutes (W. 79° 32′) plus three hundred forty-two and six-tenths (342.6) meters, the datum of said latitude and longitude being what is generally known as the Panama-Colon Datum. All bearings are referred to true meridian.

The foregoing description of the City of Panama and Panama Harbor conform to the accompanying blue print marked exhibit "B."

V.

It is agreed that the permanent boundary line between the City of Colon and the Canal Zone shall be as follows:

Beginning at a point on the western shore of Boca Chica (sometimes called Folks River) marked "A" on the map, and fifty (50) meters to the eastward of the center line of the main line of track of the Panama Railroad; thence northward and northwestward, always parallel with said railroad track, and at a uniform distance of fifty (50) meters from the center line thereof to the center of Bolivar Street (sometimes called "C" street), said point beng marked "B" on the map; thence northerly along the center line of said Bolivar Street, to the center line of Eleventh Street, this point of intersection being marked "C" on the map; thence westerly along the center line of Eleventh Street, a distance of one hundred sixty-two and fifty-three hundredths (162.53) meters to a cross on the sea wall along Limon Bay, said point being marked "D" on the map; thence north seventy-eight degrees, thirty minutes and thirty seconds west (N. 78° 30′ 30″ W.) to the shore of Limon Bay at mean low water mark; thence following the mean low water line around the shore in a northerly, easterly, southerly, and westerly direction to the point of beginning, except that at the site of the old Colon lighthouse a detour is made, as shown on the map, to exclude an area of land to be used as the site for a United States battery, which site shall be deemed to be within the Canal Zone.

The site for a United States battery above mentioned, which is to be included within the jurisdiction of the Canal Zone, is described as follows:

The initial point is a tack in a stake on Colon point, situated with reference to certain prominent points as follows: South forty-one degrees, six minutes east (S. 41° 6′ E.) twenty-five and twenty-two one-hundredths (25.22) feet from the southwest interior corner of the upper pavement of the swimming pool; south eleven degrees, thirty-seven minutes west (S. 11° 37′ W.) one hundred twenty-seven and sixty-eight one-hundredths (127.68) feet from a cross mark on a bolt set in a concrete base thirteen and nine-tenths (13.9) feet to the northeast of the center of the northeastern edge of the swimming pool; south thirty-five degrees, eighteen minutes west (S. 35° 18′ W.) two hundred sixty-six and seventy-five one-hundredths (266.75) feet from the northwestern corner of the Hotel Washington; and north sixty-eight degrees, twenty-nine minutes west (N. 68° 29′ W.), five hundred forty-three and ninety-five one-hundredths (543.95) feet from the cross mark on a rail set in a concrete base at a point where the south building line of Second Street intersects the center line of Bottle Alley; from this initial point south forty-three degrees, no minutes west (S. 43° 00′ W.), two hundred fifty-eight and five-tenths (258.5) feet to a point; thence north forty-seven degrees, no minutes west (N. 47° 00′ W.) ninety and sixty-four one-hundredths (90.64) feet to a point; thence by a curve to the right with a radius of fifty-six and eighty-six one-hundredths (56.86) feet and a central angle of forty-five degrees, no minutes (45° 00′), forty-four and sixty-six one-hundredths (44.66) feet to a point; thence by a curve to the right with a radius of ninety-one (91) feet and a central angle of forty-five degrees, no minutes (45° 00′), seventy-one and forty-seven one-hundredths (71.47) feet to a point; thence north forty-three degrees, no minutes east (N. 43° 00′ E.), one hundred seventy-seven and five-tenths (177.5) feet to a point; thence south forty-seven degrees, no minutes east (S. 47° 00′ E.), one hundred fifty-seven and five-tenths (157.5) feet to the point of beginning, containing ninety-one one-hundredths (0.91) acres, more or less. All bearings are referred to true meridian (Panama-Colon Datum).

VI.

The harbor of Colon shall consist of those maritime waters lying to the westward of the City of Colon and bounded as follows:

The southerly boundary of the harbor of Colon is in a line running north seventy-eight degrees, thirty minutes and thirty seconds west (N. 78° 30′ 30″ W.), which begins at a cross cut in the concrete sea wall on the easterly side of Limon Bay and on the center line of Eleventh Street, Colon, produced westerly. This point is marked "D" on the map designated exhibit "C." Beginning at mean low water mark on Limon Bay on the above described line the boundary runs northwesterly along said line to a point in Limon Bay marked "E" on the map, and located three hundred and thirty (330) meters east of the center line of the Panama Canal; thence turning to the right and running in a northerly direction the line runs parallel with the above mentioned center line and at a distance of three hundred and thirty (330) meters easterly therefrom until it meets an imaginary straight line drawn through the lighthouse on Toro Point having a bearing of south seventy-eight degrees and thirty minutes and thirty seconds east (S. 78° 30′ 30″ E.), this intersection point being marked "F" on the map; thence turning to the right and running along the above-mentioned line south seventy-eight degrees, thirty minutes and thirty seconds east (S. 78° 30′ 30″ E.) to a point on the boundary of the above-mentioned site for the United States battery; thence turning to the right and running along the said boundary line of said site to the mean low water line of Limon Bay; thence turning to the right and running along said water line in a generally southerly direction to the point of beginning at the foot of Eleventh Street.

All bearings in this description and on the plan mentioned above are referred to true meridian (Panama-Colon Datum).

The foregoing description of the City of Colon and Colon Harbor conform to the accompanying blue print marked exhibit "C."

VII.

It is agreed that the Republic of Panama shall have an easement over and through the waters of the Canal Zone in and about Limon and Manzanillo bays to the end that vessels trading with the City of Colon may have access to and exit from the harbor of Colon, subject to the police laws and quarantine and sanitary rules and regulations of the United States and of the Canal Zone established for said waters.

The United States also agrees that small vessels may land at the east wall which extends along the shore to the south of the foot of Ninth Street and recently constructed by the Panama Railroad Company in the harbor of Colon free of any wharfage or landing charges that might otherwise accrue to the said company under the terms of its concessions from the Government of Colombia; and the United States further agrees that it will construct and maintain a landing pier in a small cove on the southerly side of Manzanillo Island in the northwesterly portion of the arm of the sea known as Boca Chica (sometimes called Folks River), to be used as a shelter harbor for small coasting boats of the Republic of Panama, without any wharfage or other landing charges.

VIII.

Inasmuch as the highway known as the "Sabanas Road" will come entirely within the bounds of the City of Panama under this agreement the authorities of the Canal Zone are hereby relieved of the duty to repair and maintain such road, or any part of it, and the same shall be done henceforth by the authorities of the Republic at their cost and expense.

IX.

It is agreed that the Republic of Panama will not construct nor allow the construction of any railway across the Sabanas or other territory hereby transferred to that Republic without a mutually satisfactory agreement having been previously arrived at between the two governments; and this shall be without prejudice to any right the United States may have to object to such railway projection under any of the provisions of the Canal Treaty of November 18, 1903.[11]

X.

The contracting parties hereby agree that this Convention shall not diminish, exhaust, or alter any rights acquired by them heretofore in conformity with the Canal Treaty of November 18, 1903;

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[11] Hay-Bunau Varilla Treaty, Art. V, p. 839.

and it is further expressly agreed that the United States, in the exercise of the rights granted to it under articles II and III of the said Canal Treaty and subject to article VI of said Treaty, may enter upon and use, occupy, and control the whole or any portion of the Sabanas land, or other territory hereby transferred to the Republic of Panama, as the same may be necessary, or convenient, for the construction, maintenance, operation, sanitation, or protection of the Canal or of any auxiliary canals, or other works necessary and convenient for the construction, maintenance, operation, sanitation, or protection of said enterprise.

XI.

This agreement shall not be construed to modify the rights of the authorities of the Canal Zone to employ citizens of the Republic of Panama residing in the territory of the Republic as provided in section V of the above-mentioned agreement of June 15, 1904, and for which purpose the Government of the Republic granted the permission required by paragraph 2 of article 7 of the Panamanian Constitution.

XII.

The civil and criminal cases pending in the courts of the Canal Zone and the Republic of Panama at the time of the execution of this Convention shall not be affected hereby but the same shall be proceeded with to final judgment and disposed of in the courts where they are now pending as though this agreement had not been entered into.

XIII.

The exhibits accompanying this agreement are signed by the representatives of the respective governments for identification. This Convention, when signed by the plenipotentiaries of the high contracting parties, will be ratified by the two governments in conformity with their respective constitutional laws, and the ratifications shall be exchanged at Panama at the earliest date possible.

In faith whereof the respective plenipotentiaries have signed the present Convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Panama, the second day of September, in the year of our Lord, nineteen hundred and fourteen.

[SEAL.]	WILLIAM JENNINGS PRICE.
[SEAL.]	E. T. LEFEVRÉ.

PANAMA—1914

PROTOCOL OF AN AGREEMENT RELATING TO NEUTRALITY

Signed at Washington October 10, 1914

Protocol of an agreement concluded between Honorable Robert Lansing, Acting Secretary of State of the United States, and Don Eusebio A. Morales, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, signed the tenth day of October, 1914.

The undersigned, the Acting Secretary of State of the United States of America and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, in view of the close association of the interests of their respective Governments on the Isthmus of Panama, and to the end that these interests may be conserved and that, when a state of war exists, the neutral obligations of both Governments as neutrals may be maintained, after having conferred on the subject and being duly empowered by their respective Governments, have agreed:

That hospitality extended in the waters of the Republic of Panama to a belligerent vessel of war or a vessel belligerent or neutral, whether armed or not, which is employed by a belligerent power as a transport or fleet auxiliary or in any other way for the direct purpose of prosecuting or aiding hostilities, whether by land or sea, shall serve to deprive such vessel of like hospitality in the Panama Canal Zone for a period of three months, and *vice versa.*

In testimony whereof, the undersigned have signed and sealed the present Protocol in the city of Washington this tenth day of October, 1914.

Robert Lansing, [l. s.]
Eusebio A. Morales [l. s.]

PANAMA—1926

CLAIMS CONVENTION

Signed at Washington July 28, 1926; ratification advised by the Senate January 26, 1929; ratified by the President September 11, 1931; ratified by Panama September 25, 1931; ratifications exchanged at Washington October 3, 1931; proclaimed October 6, 1931

[47 Stat. L. 1915]

ARTICLES

I. Claims included; constitution of Commission.
II. Organization and meetings of Commission.
III. Proceedings of Commission.
IV. Record of proceedings; Secretaries and assistants.
V. Exhaustion of legal remedies not condition precedent.
VI. Time of filing and adjudicating claims; reports.
VII. Finality of proceedings of Commission.
VIII. Payment of balance between total awards.
IX. Expenses of Commission.
X. Ratification.

The United States of America and the Republic of Panama, desiring to settle and adjust amicably claims by the citizens of each country against the other, have decided to enter into a Convention with this object, and to this end have nominated as their plenipotentiaries:

The President of the United States of America, The Honorable Frank B. Kellogg, Secretary of State of the United States of America; and

The President of the Republic of Panama, The Honorable Doctor Ricardo J. Alfaro, Envoy Extraordinary and Minister Plenipotentiary of Panama to the United States and the Honorable Doctor Eusebio A. Morales, Envoy Extraordinary and Minister Plenipotentiary of Panama on special mission;

Who, after having communicated to each other their respective full powers found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

All claims against the Republic of Panama arising since November 3, 1903, except the so-called Colon Fire Claims hereafter referred to, and which at the time they arose were those of citizens of the United States of America, whether corporations, companies, associations, partnerships or individuals, for losses or damages suffered by persons or by their properties, and all claims against the United States of America arising since November 3, 1903, and which at the time they arose were those of citizens of the Republic of Panama, whether corporations, companies, associations, partnerships or individuals, for losses or damages suffered by persons or by their properties; all claims for losses or damages suffered by citizens of either country, by reason of losses or damages suffered by any corporation, company, association or partnership, in which such citizens have or have had, a substantial and bona fide interest, provided an allotment to the claimant by the corporation, company, association or partnership, of his proportion of the loss or damage suffered is presented by the claimant to the Commission; and all claims for losses or damage originating from acts of officials or others acting for either Government, and resulting in injustice, and which claims may have been presented to either Government for its interposition with the other, and which have remained unsettled, as well as any other such claims which may be filed by either Government within the time hereinafter specified, shall be submitted to a Commission consisting of three members for decision in accordance with the principles of international law, justice and equity. As an exception to the claims to be submitted to such Commission, unless by later specific agreement of the two Contracting Parties, are claims for compensation on account of damages caused in the manner set forth in Article VI of the Treaty of November 18, 1903,[12] for the construction of the Panama Canal, which shall continue to be heard and decided by the Joint Commission provided for in that Article of the Treaty.

With regard to the exception above made respecting the claims for losses suffered by American citizens as a result of the fire that occurred in the City of Colon on March 31, 1885, the Government of Panama agrees in principle to the arbitration of such claims under a Convention to which the Republic of Colombia shall be invited to become a party and which shall provide for the creation or selection of an arbitral tribunal to determine the following questions: First, whether the Republic of Colombia incurred any liability for losses sustained by American citizens on account of the fire that took place in the City of Colon on the 31st of March 1885: and, second, in case it should be determined in the arbitration that there is an original liability on the part of Colombia, to what extent, if any, the Republic of Panama has succeeded Colombia in such liability on account of her separation from Colombia on November 3, 1903, and the Government of Panama agrees to cooperate with the Government of the United States by means of amicable representations in the negotiation of such arbitral agreement between the three Countries.

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[12] For. Art. VI of Treaty, see p. 841.

The hearing and adjudication of particular claims in accordance with their merits in order to determine the amount of damages to be paid, if any, in case a liability is found, shall take place before a special tribunal to be constituted in such form as the circumstances created by the tri-partite arbitration shall demand.

As a specific exception to the limitation of the claims to be submitted to the Commission against the United States of America it is agreed that there shall be submitted to the Commission the claims of Abbondio Caselli, a Swiss citizen, or the Government of Panama, and Jose C. Monteverde, an Italian subject, or the Government of Panama, as their respective interests in such claims may appear, these claims having arisen from land purchased by the Government of Panama from the said Caselli and Monteverde and afterwards expropriated by the Government of the United States, and having formed in each case the subject matter of a decision by the Supreme Court of Panama.

The Commission shall be constituted as follows: One member shall be appointed by the President of the United States; one by the President of the Republic of Panama; and the third, who shall preside over the Commission, shall be selected by mutual agreement between the two Governments. If the two Governments shall not agree within two months from the exchange of ratifications of this Convention in naming such a third member, then he shall be designated by the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague described in Article 49 of the Convention for the Pacific Settlement of International Disputes concluded at The Hague October 18, 1907. In case of the death, absence or incapacity of any member of the Commission, or in the event of the member omitting or ceasing to act as such, the same procedure shall be followed for filling the vacancy as was followed in appointing him.

ARTICLE II

The Commissioners so named shall meet at Washington for organization within six months after the exchange of ratifications of this Convention, and each member of the Commission before entering upon his duties, shall make and subscribe a solemn declaration stating that he will carefully and impartially examine and decide according to the best of his judgment and in accordance with the principles of international law, justice and equity, all claims presented for his decision, and such declaration shall be entered upon the record of the proceedings of the Commission.

The Commission may fix the time and place of its subsequent meetings, either in the United States or in Panama as may be convenient, subject always to the special instructions of the two Governments.

ARTICLE III

The Commission shall have authority by the decision of the majority of its members to adopt such rules for its proceedings as may be deemed expedient and necessary, not in conflict with any of the provisions of this Convention.

Each Government may nominate agents or counsel who will be authorized to present to the Commission orally or in writing, all the arguments deemed expedient in favor of or against any claim. The agents or counsel of either Government may offer to the Commission any documents, affidavits, interrogatories or other evidence desired in favor of or against any claim and shall have the right to examine witnesses under oath or affirmation before the Commission, in accordance with such rules of procedure as the Commission shall adopt.

The decision of the majority of the members of the Commission shall be the decision of the Commission.

The language in which the proceedings shall be conducted and recorded shall be English or Spanish.

ARTICLE IV

The Commission shall keep an accurate record of the claims and cases submitted, and minutes of its proceedings with the dates thereof. To this end, each Government may appoint a Secretary; those Secretaries shall act as joint Secretaries of the Commission and shall be subject to its instructions. Each Government may also appoint and employ, any necessary assistant secretaries and such other assistants as may be deemed necessary. The Commission may also appoint and employ any other persons necessary to assist in the performance of its duties.

ARTICLE V

The High Contracting Parties being desirous of effecting an equitable settlement of the claims of their respective citizens, thereby affording them just and adequate compensation for their losses or damages, agree that no claim shall be disallowed or rejected by the Commission through the application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity or allowance of any claim.

ARTICLE VI

Every such claim for loss or damage accruing prior to the signing of this Convention, shall be filed with the Commission within four months from the date of its first meeting, unless in any case reasons for the delay, satisfactory to the majority of the Commissioners, shall be established, and in any such case the period for filing the claim may be extended not to exceed two additional months.

The Commission shall be bound to hear, examine and decide, within one year from the date of its first meeting, all the claims filed.[13]

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[13] This paragraph amended by Art. I, p. 861.

Three months after the date of the first meeting of the Commissioners and every three months thereafter, the Commission shall submit to each Government a report setting forth in detail its work to date, including a statement of the claims filed, claims heard and claims decided. The Commission shall be bound to decide any claim heard and examined, within six months after the conclusion of the hearing of such claim and to record its decision.

Article VII

The High Contracting Parties agree to consider the decision of the Commission as final and conclusive upon each claim decided, and to give full effect to such decisions. They further agree to consider the result of the proceedings of the Commission as a full, perfect and final settlement of every such claim upon either Government, for loss or damage sustained prior to the exchange of the ratifications of the present Convention. And they further agree that every such claim, whether or not filed and presented to the notice of, made, preferred or submitted to such Commission, shall from and after the conclusion of the proceedings of the Commission, be considered and treated as fully settled, barred, and thenceforth inadmissible, provided in the case of the claims filed with the Commission that such claims have been heard and decided.

This provision shall not apply to the so-called Colon Fire Claims. which will be disposed of in the manner provided for in Article I of this Convention.

Article VIII

The total amount awarded in all the cases decided in favor of the citizens of one country shall be deducted from the total amount awarded to the citizens of the other country, and the balance shall be paid at the City of Panama or at Washington, in gold coin or its equivalent within one year from the date of the final meeting of the Commission, to the Government of the country in favor of whose citizens the greater amount may have been awarded.[14]

Article IX

Each Government shall pay its own Commissioner and bear its own expenses. The expenses of the Commission including the salary of the third Commissioner shall be defrayed in equal proportions by the two Governments.

Article X

The present Convention shall be ratified by the High Contracting Parties in accordance with their respective Constitutions. Ratifications of this Convention shall be exchanged in Washington as soon as practicable and the Convention shall take effect on the date of the exchange of ratifications.

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[14] This article amended by Article II, p. 862.

In witness whereof, the respective plenipotentiaries have signed and affixed their seals to this Convention.

Done in duplicate in Washington this twenty-eighth day of July 1926.

[SEAL] FRANK B KELLOGG
[SEAL] R. J. ALFARO
[SEAL] EUSEBIO A MORALES

PANAMA—1932

CONVENTION MODIFYING CLAIMS CONVENTION OF JULY 28, 1926

Signed at Panama December 17, 1932; ratification advised by the Senate February 18, 1933; ratified by the President February 23, 1933; ratified by Panama March 20, 1933; ratifications exchanged at Panama March 25, 1933; proclaimed March 30, 1933

ARTICLES

I. Time of hearing and deciding claims.
II. Payment of balance between total awards.
III. Ratification.

The United States of America and the Republic of Panama desiring to modify certain provisions of a Convention for the settlement and amicable adjustment of claims presented by the citizens of each country against the other, signed at Washington July 28, 1926,[15] have decided to conclude a Convention for that purpose and have nominated as their plenipotentiaries:

The President of the United States of America, Mr. Roy Tasco Davis, Envoy Extraordinary and Minister Plenipotentiary of the United States to Panama; and

The President of the Republic of Panama, His Excellency Doctor J. Demóstenes Arosemena, Secretary for Foreign Affairs of the Republic of Panama;

Who after having communicated to each other their respective full powers found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

The second paragraph of Article VI of the Convention between the United States of America and the Republic of Panama for the settlement and amicable adjustment of claims by citizens of each country against the other, signed at Washington July 28, 1926, is amended to read as follows:

> The Commission shall be bound to hear, examine and decide, before July 1, 1933, all the claims filed on or before October 1, 1932.[16]

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[15] For Convention of July 28, 1926, see p. 856.
[16] For article amended, see p. 859.

ARTICLE II.

Article VIII of the Claims Convention signed at Washington on July 28, 1926, by Plenipotentiaries of the United States of America and the Republic of Panama is amended to read as follows:

> The total amount awarded in all the cases decided in favor of the citizens of one country shall be deducted from the total amount awarded to the citizens of the other country, and the balance shall be paid at the city of Panama or at Washington, in gold coin or its equivalent the first of July, 1936, or before, to the Government of the country in favor of whose citizens the greater amount may have been awarded.[17]

ARTICLE III.

The present Convention shall be ratified by the High Contracting Parties in accordance with their respective Constitutions. Ratifications of this Convention shall be exchanged in Panama as soon as practicable and the Convention shall take effect on the date of the exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed and affixed their seals to this Convention.

Done in duplicate in Panama this seventeenth day of December, 1932.

[SEAL] ROY T. DAVIS
J D AROSEMENA [SEAL]

PANAMA—1932

CONVENTION REGULATION TRANSIT OF ALCOHOLIC LIQUORS THROUGH THE CANAL ZONE

Signed at Panama March 14, 1932; ratification advised by the Senate June 18, 1932; ratified by the President June 24, 1932; ratified by Panama March 20, 1933; ratifications exchanged at Panama March 25, 1933; proclaimed April 7, 1933

ARTICLES

I. Transit of alcoholic liquors through Canal Zone.
II. Status, modification and termination of Article I.
III. Ratification.

The President of the United States of America and the President of the Republic of Panama desiring, in accordance with the provisions of Article V of the Convention between the United States of America and the Republic of Panama for the Prevention of Smuggling of Intoxicating Liquors, signed at Washington, June 6, 1924,[18] to modify the said Convention by adding to it an article which shall regulate transit through the territory of the Canal Zone, referred to in Article VI of the Treaty signed at Washington, on November 18, 1903,[19] with respect to the shipment of alcoholic liquors from one point in the Republic of Panama to another point in the Republic of Panama, have decided to conclude a convention for that purpose and have appointed as their plenipotentiaries:

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[17] For article amended, see p. 860.
[18] For said Convention of June 6, 1924, see 43 Statutes at Large, p. 1875.
[19] For said Art. VI, see p. 841.

The President of the United States of America, Mr. Roy T. Davis, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Republic of Panama; and

The President of the Republic of Panama, His Excellency Enrique Geenzier, Secretary for Foreign Affairs;

Who, having communicated their full powers found in good and due form, have agreed as follows:

ARTICLE I

No penalty or forfeiture under the laws of the United States of America shall be applicable or attach to alcoholic liquors or to vehicles or persons by reason of the carriage of such liquors when they are in transit under seal and under certificate by Panamanian authority from the terminal ports of the Canal to the cities of Panama or Colon or from the cities of Panama or Colon to the terminal ports of the Canal when said liquors are intended for exportation, or between the cities of Panama or Colon and any other points of the Republic or between any two points of the territory of the Republic when in any of these cases the direct or natural means of communication is through Canal Zone territory and provided that such liquors remain under the said seals and certificates while they are passing through Canal Zone territory.

ARTICLE II

Article I of the present convention shall be deemed to constitute an integral part of the convention of June 6, 1924, and as such shall be subject to the provisions of that convention regarding modification and termination.

If the substance of Article I of the present convention be incorporated in any treaty which may hereafter be concluded between the United States of America and the Republic of Panama, the present convention shall automatically lapse when such treaty shall come into force.

ARTICLE III

The present convention shall be ratified by the High Contracting Parties in accordance with the requirements of the constitutions of the United States of America and the Republic of Panama, respectively, and the ratifications shall be exchanged at Panama as soon as possible. The convention shall enter into force on the date of the exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed the present Convention in duplicate, in the English and Spanish languages, both of which shall be authentic, and have hereunto affixed their seals.

Done in the City of Panama this fourteenth day of March, in the year of our Lord one thousand nine hundred and thirty-two.

ROY T. DAVIS [SEAL]

ENRIQUE GEENZIER [SEAL]

COLOMBIA—1914

TREATY FOR THE SETTLEMENT OF DIFFERENCES ARISING OUT OF EVENTS WHICH TOOK PLACE ON THE ISTHMUS OF PANAMA IN NOVEMBER, 1903

Signed at Bogota April 6, 1914; ratification advised by the Senate with amendments April 20, 1921; ratified by the President January 11, 1922; ratified by Colombia March 1, 1922; ratifications exchanged at Bogota, March 1, 1922; proclaimed March 30, 1922

[42 Stat. L. 2122]

ARTICLES

I. Rights of Colombia in respect to the interoceanic canal and Panama Railway.
II. United States to pay Colombia $25,000,000.
III. Colombia recognizes independence of Panama; United States to take steps to establish relations between Colombia and Panama.
IV. Ratification.

The United States of America and the Republic of Colombia, being desirous to remove all the misunderstandings growing out of the political events in Panama in November, 1903; to restore the cordial friendship that formerly characterized the relations between the two countries, and also to define and regulate their rights and interests in respect of the interoceanic canal which the Government of the United States has constructed across the Isthmus of Panama, have resolved for this purpose to conclude a Treaty and have accordingly appointed as their Plenipotentiaries:

His Excellency the President of the United States of America, Thaddeus Austin Thompson, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Government of the Republic of Colombia; and

His Excellency the President of the Republic of Colombia, Francisco José Urrutia, Minister for Foreign Affairs; Marco Fidel Suárez, First Designate to exercise the Executive Power; Nicolás Esguerra, Ex-Minister of State; José María González Valencia, Senator; Rafael Uribe Uribe, Senator; and Antonio José Uribe, President of the House of Representatives;

Who, after communicating to each other their respective full powers, which were found to be in due and proper form, have agreed upon the following:

ARTICLE I.

The Republic of Colombia shall enjoy the following rights in respect to the interoceanic Canal and the Panama Railway, the title to which is now vested entirely and absolutely in the United States of America, without any incumbrances or indemnities whatever.

1.—The Republic of Colombia shall be at liberty at all times to transport through the interoceanic Canal its troops, materials of war and ships of war, without paying any charges to the United States.[20]

2.—The products of the soil and industry of Colombia passing through the Canal, as well as the Colombian mails, shall be exempt from any charge or duty other than those to which the products and mails of the United States may be subject. The products of the soil and industry of Colombia, such as cattle, salt and provisions, shall be admitted to entry in the Canal Zone, and likewise in the islands and mainland occupied or which may be occupied by the United States as auxiliary and accessory thereto, without paying other duties or charges than those payable by similar products of the United States.

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[20] This clause modified by Protocol of Exchange, p. 866.

3.—Colombian citizens crossing the Canal Zone shall, upon production of proper proof of their nationality, be exempt from every toll, tax or duty to which citizens of the United States are not subject.

4.—Whenever traffic by the Canal is interrupted or whenever it shall be necessary for any other reason to use the railway, the troops, materials of war, products and mails of the Republic of Colombia, as above mentioned, shall be transported on the Railway between Ancon and Cristobal or on any other Railway substituted therefor, paying only the same charges and duties as are imposed upon the troops, materials of war, products and mails of the United States. The officers, agents and employees of the Government of Colombia shall, upon production of proper proof of their official character or their employment, also be entitled to passage on the said Railway on the same terms as officers, agents and employees of the Government of the United States.

5.—Coal, petroleum and sea salt, being the products of Colombia, for Colombian consumption passing from the Atlantic coast of Colombia to any Colombian port on the Pacific coast, and vice versa, shall, whenever traffic by the Canal is interrupted, be transported over the aforesaid Railway free of any charge except the actual cost of handling and transportation, which shall not in any case exceed one half of the ordinary freight charges levied upon similar products of the United States passing over the Railway and in transit from one port to another of the United States.

ARTICLE II.

The Government of the United States of America agrees to pay at the City of Washington to the Republic of Colombia the sum of twenty-five million dollars, gold, United States money, as follows: The sum of five million dollars shall be paid within six months after the exchange of ratifications of the present treaty, and reckoning from the date of that payment, the remaining twenty million dollars shall be paid in four annual installments of five million dollars each.

ARTICLE III.

The Republic of Colombia recognizes Panama as an independent nation and taking as a basis the Colombian Law of June 9, 1855, agrees that the boundary shall be the following: From Cape Tiburón to the headwaters of the Rio de la Miel and following the mountain chain by the ridge of Gandi to the Sierra de Chugargun and that of Mali going down by the ridges of Nigue to the heights of Aspave and from thence to a point on the Pacific half way between Cocalito and La Ardita.

In consideration of this recognition, the Government of the United States will, immediately after the exchange of the ratifications of the present Treaty, take the necessary steps in order to obtain from the Government of Panama the despatch of a duly accredited agent to negotiate and conclude with the Government of Colombia a Treaty of Peace and Friendship, with a view to bring about both the establishment of regular diplomatic relations between Colombia and Panama and the adjustment of all questions of pecuniary liability as between the two countries, in accordance with recognized principles of law and precedents.

Article IV.

The present Treaty shall be approved and ratified by the High Contracting Parties in conformity with their respective laws, and the ratifications thereof shall be exchanged in the city of Bogotá, as soon as may be possible.

In faith whereof, the said Plenipotentiaries have signed the present Treaty in duplicate and have hereunto affixed their respective seals.

Done at the city of Bogotá, the sixth day of April in the year of our Lord nineteen hundred and fourteen.

[SEAL.] Thaddeus Austin Thompson
[SEAL.] Francisco José Urrutia
[SEAL.] Marco Fidel Suárez
[SEAL.] Nicolás Esguerra
[SEAL.] José M. González Valencia
[SEAL.] Rafael Uribe Uribe
[SEAL.] Antonio José Uribe

PROTOCOL OF EXCHANGE.

The undersigned Plenipotentiaries having met for the purpose of exchanging the ratifications of the Treaty signed at Bogotá, on April 6, 1914, between the United States of America and Colombia, providing for the settlement of differences arising out of the events which took place on the Isthmus of Panama in November, 1903, and the ratifications of the Treaty aforesaid having been carefully compared and found exactly comformable to each other, the exchange took place this day in the usual form.

With reference to this exchange the following statement is incorporated in the present Protocol in accordance with instructions received:

1. In conformity with the final Resolution of the Senate of the United States in giving its consent to the ratification of the Treaty in question, the stiuplation contained in the first clause of Article one [21] by which there is ceded to the Republic of Colombia free passage of its troops, materials of war and ships of war through the

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[21] For the first clause of Art. I, see p. 864.

Panama Canal, shall not be applicable in case of a state or war between the Republic of Colombia and any other country.

2. The said final Resolution of the Senate of the United States signifies, as the Secretary of State in effect stated in the note which he addressed to the Colombian Legation in Washington on the 3rd day of October, 1921, that the Republic of Colombia will not have the right of passage, free of tolls, for its troops, materials of war and ships of war, in case of war between Colombia and some other country, and consequently, the Republic of Colombia will be placed, when at war with another country, on the same footing as any other nation under similar conditions, as provided in the Hay-Pauncefote Treaty concluded in 1901; and that, therefore, the Republic of Colombia will not by operation of the declaration of the Senate of the United States above mentioned, be placed under any disadvantage as compared with the other belligerent or belligerents, in the Panama Canal, in case of war between Colombia and some other nation or nations. With this understanding the said Resolution has been accepted by the Colombian Congress in accordance with the dispositions contained in Article two of Law fifty-six of 1921, " by which is modified Law number fourteen of 1914 " approving the Treaty.

IN WITNESS WHEREOF, they have signed the present Protocol of Exchange and have affixed their seals thereto.

Done at Bogotá, this first day of March, one thousand nine hundred and twenty-two.

[SEAL.] HOFFMAN PHILIP
[SEAL.] ANTONIO JOSÉ URIBE

GENERAL LAWS OF THE UNITED STATES APPLICABLE IN OR RELATING TO THE CANAL ZONE OR THE PANAMA CANAL

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NOTE.—References in this appendix, unless otherwise indicated, are to title and section of the United States Code.

UNITED STATES CODE, TITLE 5

EXECUTIVE DEPARTMENTS AND GOVERNMENT OFFICERS AND EMPLOYEES

Ch. — Sec.
1. Provisions applicable to departments and officers generally 26a
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CHAPTER 1.—PROVISIONS APPLICABLE TO DEPARTMENTS AND OFFICERS GENERALLY

Sections 26a and 26b. Saturday half holidays.—

NOTE.—Section 26a, providing a Saturday half holiday, expressly excepts employees of the Panama Canal on the Isthmus. Section 26b fixes a workday of seven hours on Saturday "as to those employees excepted from the provisions of section 26a."

30a. Limitation of annual leave; exception of certain Canal employees.—

NOTE.—This section is expressly inapplicable to officers and employees of the Panama Canal and Panama Railroad Co. on the Isthmus.

35. Preference in appointments to honorably discharged soldiers, sailors, and marines, and widows and wives thereof.—In making appointments to clerical and other positions in the executive branch of the Government in the District of Columbia or elsewhere preference shall be given to honorably discharged soldiers, sailors, and marines, and widows of such, and to the wives of injured soldiers, sailors, and marines, who themselves are not qualified, but whose wives are qualified to hold such positions. (June 18, 1929, ch. 28, sec. 3, 46 Stat. 21.)

35a. Preference in appointments; spouse of married employee.—In the appointment of persons to the classified civil service, preference shall be given to persons other than married persons living with husband or wife, such husband or wife being in the service of the

United States or the District of Columbia. (June 30, 1932, ch. 314, sec. 213, 47 Stat. 406.)

36. Employment of wives of soldiers and sailors.—The wife of a soldier or sailor who served in the World War shall not be disqualified for any position or appointment under the Government because she is a married woman. (Aug. 31, 1918, ch. 166, sec. 5, 40 Stat. 956.)

37a. Personnel reductions; married persons.—In any reduction of personnel in any branch or service of the United States Government or the District of Columbia, married persons (living with husband or wife) employed in the class to be reduced, shall be dismissed before any other persons employed in such class are dismissed, if such husband or wife is also in the service of the United States or the District of Columbia. (June 30, 1932, ch. 314, sec. 213, 47 Stat. 406.)

46a. Removal of employees for cause; withholding pay.—From and after February 24, 1931, there shall be no withholding or confiscation of the earned pay, salary, or emolument of any civil employee of the United States removed for cause: *Provided*, That if at the time of such removal any such employee is indebted to the United States any salary, pay, or emolument accruing to such employee coming within the provisions of this section shall be applied in whole or in part to the satisfaction of any claim or indebtedness due to the United States. (Feb. 24, 1931, ch. 287, 46 Stat. 1415.)

NOTE.—The Act cited to the text was entitled "An Act to provide against the withholding of pay when employees are removed for breach of contract to render faithful service."

47a. Uniform date for retirement of Federal personnel.—

NOTE.—This section appears in a note following Canal Zone Code, title 2, section 94.

58. Double salaries.—Unless otherwise specifically authorized by law, no money appropriated by any act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of $2,000 per annum. (R. S. sec. 1763; May 10, 1916, ch. 117, sec. 6, 39 Stat. 120; Aug. 29, 1916, ch. 417, 39 Stat. 582.)

59. Same; exceptions; retired officers and enlisted men of Army, Navy, Marine Corps, or Coast Guard, or officers and enlisted men of militia.—Section 58 of this title shall not apply to retired officers or enlisted men of the Army, Navy, Marine Corps, or Coast Guard, or to officers and enlisted men of the Organized Militia and Naval Militia in the several States, Territories, and the District of Columbia. (May 10, 1916, ch. 117, sec. 6, 39 Stat. 120; Aug. 29, 1916, ch. 417, 39 Stat. 582.)

CROSS-REFERENCE

See Canal Zone Code, title 2, section 82.

59a. Same; limitation of amount of retired pay as commissioned officer in Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service.—(a) After June 30, 1932, no person holding a civilian office or position, appointive or elective, under the United States Government or the municipal government of the District of Columbia or under any corporation, the majority of the stock of which is owned by the United States, shall be entitled, during the period of such incumbency, to retired pay from the United States for or on account of services as a commissioned officer in any of the services mentioned in Title 37, Pay and Allowances, at a rate in excess of an amount which when combined with the annual rate of compensation from such civilian office or position, makes the total rate from both sources more than $3,000; and when the retired pay amounts to or exceeds the rate of $3,000 per annum such person shall be entitled to the pay of the civilian office or position or the retired pay, whichever he may elect. As used in this section, the term "retired pay" shall be construed to include credits for all service that lawfully may enter into the computation thereof.

(b) This section shall not apply to any person whose retired pay plus civilian pay amounts to less than $3,000: *Provided*, That this section shall not apply to regular or emergency commissioned officers retired for disability incurred in combat with an enemy of the United States. (June 30, 1932, ch. 314, sec. 212, 47 Stat. 406.)

62. Holding other lucrative office.—No person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office to which compensation is attached unless specially authorized thereto by law; but this shall not apply to retired officers of the Army or Navy whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate. Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard retired for any cause, and retired officers of the Army, Navy, Marine Corps, or Coast Guard who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or to have held an office during such retirement. (July 31, 1894, ch. 174, sec. 2, 28 Stat. 205; May 31, 1924, ch. 214, 43 Stat. 245.)

66. Receiving salary from source other than United States.—No Government official or employee shall receive any salary in connection with his services as such an official or employee from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality, and no person, association, or corporation shall make any contribution to, or in any way supplement the salary of, any Government official or employee for the services performed by him for the Government of the United States. Any person violating any of the terms of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $1,000 or imprisonment for not less than six months, or by both such fine and imprisonment as the court may determine. (Mar. 3, 1917, ch. 163, sec. 1, 39 Stat. 1106.)

69. Extra services.—No allowance or compensation shall be made to any officer or clerk, by reason of the discharge of duties which belong to any other officer or clerk in the same or any other department; and no allowance or compensation shall be made for any extra services whatever, which any officer or clerk may be required to perform, unless expressly authorized by law. (R.S. sec. 1764.)

70. Extra allowances.—No officer in any branch of the public service, or any other person whose salary, pay, or emoluments are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatever, unless the same is authorized by law, and the appropriation therefor explicitly states that it is for such additional pay, extra allowance, or compensation. (R.S. sec. 1765.)

71. Extra compensation or perquisites.—No civil officer of the Government shall receive any compensation or perquisites, directly or indirectly, from the Treasury or property of the United States beyond his salary or compensation allowed by law. This section shall not be construed to prevent the employment and payment by the Department of Justice of district attorneys as allowed by law for the performance of services not covered by their salaries or fees. (June 20, 1874, ch. 328, sec. 3, 18 Stat. 109.)

72. Additional compensation to persons employed under general or lump-sum appropriation.—It shall not be lawful to pay to any person, employed in the service of the United States under any general or lump-sum appropriation, any sum additional to the regular compensation received for or attached to any employment held prior to an appointment or designation as acting for or instead of an occupant of any other office or employment. This section shall not be construed as prohibiting regular and permanent appointments by promotion from lower to higher grades of employments. (Aug. 1, 1914, ch. 223, sec. 12, 38 Stat. 680.)

73. Actual traveling expenses only allowed.—Except as otherwise provided by law, only actual traveling expenses shall be allowed to any person holding employment or appointment under the United States, except marshals, district attorneys, and clerks of the courts of the United States and their deputies. All allowances for mileages and transportation in excess of the amount actually paid, except as above excepted, are declared illegal; and no credit shall be allowed to any of the disbursing officers of the United States for payment or allowances in violation of this section. (Mar. 3, 1875, ch. 133, sec. 1, 18 Stat. 452; June 30, 1876, ch. 159, 19 Stat. 65; June 10, 1922, ch. 212, sec. 12, 42 Stat. 631.)

73a. Travel expenses of officers and employees; transportation in own motor cycles or automobiles; payments on mileage basis in lieu of actual expenses.—A civilian officer or employee engaged in necessary travel on official business away from his designated post of duty may be paid, in lieu of actual expenses of transportation, under regulations to be prescribed by the President, not to exceed 2 cents per mile for the use of his own motor cycle or 5 cents per mile for the use of his own automobile for such transportation, whenever such mode of travel has been previously authorized and payment on such mileage basis is more economical and advantageous to the United States. (Feb. 14, 1931, ch. 165, 46 Stat. 1103; Mar. 3, 1933, ch. 212, Title II, sec. 9, 47 Stat. 1516.)

73b. Traveling expenses limited to lowest first-class rate.—Whenever by or under authority of law actual expenses for travel may be allowed to officers or employees of the United States, such allowances, in the case of travel ordered after March 3, 1933, shall not exceed the lowest first-class rate by the transportation facility used in such travel. (Mar. 3, 1933, ch. 212, Title II, sec. 10, 47 Stat. 1516.)

74. Expenses for subsistence; traveling on duty.—

NOTE.—See sections 821 et seq., of this title.

75. Same; engaged in field work or traveling on official business.—

NOTE.—See sections 821 et seq., of this title.

78. Restrictions on payments for purchase or operation of passenger-carrying vehicles.—No appropriation made in any Act shall be available for the purchase of any motor-propelled or horse-drawn passenger-carrying vehicle for the service of any of the executive departments, or other Government establishments, or any branch of the Government service, unless specific authority is given therefor. There shall not be expended out of any appropriation made by Congress any sum for purchase, maintenance, repair, or operation of motor-propelled or horse-drawn passenger-carrying vehicles for any branch of the public service of the United States unless the same is specifically authorized by law. In the estimates for each fiscal year there shall be submitted in detail estimates for such necessary appropriations as are intended to be used for purchase, maintenance, repair, or operation of all motor-propelled or horse-drawn passenger-carrying vehicles, specifying the sums required, the public purposes for which said vehicles are intended, and the officials or employees by whom the same are to be used. (July 16, 1914, ch. 141, sec. 5, 38 Stat. 508.)

82. Officers in arrears.—No money shall be paid to any person for his compensation who is in arrears to the United States, until he has accounted for and paid into the Treasury all sums for which he may be liable. In all cases where the pay or salary of any person is withheld in pursuance of this section, the General Accounting Office, if required to do so by the party, his agent or attorney, shall report forthwith to the Solicitor of the Treasury the balance due; and the solicitor shall, within sixty days thereafter, order suit to be commenced against such delinquent and his sureties. (R.S. sec. 1766; June 10, 1921, ch. 18, 42 Stat. 23.)

83. Restrictions on paying fees or dues in societies.—No money appropriated by any Act shall be expended for membership fees or dues of any officer or employee of the United States or of the District of Columbia in any society or association or for expenses of attendance of any person at any meeting or convention of members of any society or association, unless such fees, dues, or expenses are authorized to be paid by specific appropriations for such purposes or are provided for in express terms in some general appropriation. This section shall not be so construed as to prohibit the payment from the appropriations for the Department of Agriculture of expenses incidental to the delivery of lectures, the giving of instruction, or the acquiring of information at meetings by its employees on subjects relating to the work of the department authorized by law. (June 26, 1912, ch. 182, sec. 8, 37 Stat. 184; Mar. 4, 1913, ch. 145, 37 Stat. 854.)

84. Annual or monthly compensation.—Where the compensation of any person in the service of the United States is annual or monthly the following rules for division of time and computation of pay for services rendered are established: Annual compensation shall be divided into twelve equal installments, one of which shall be the pay for each calendar month; and in making payments for a fractional part of a month one-thirtieth of one of such installments, or of a monthly compensation, shall be the daily rate of pay. For the purpose of computing such compensation and for computing time for services rendered during a fractional part of a month in connection with annual or monthly compensation, each and every month shall be held to consist of thirty days, without regard to the actual number of days in any calendar month, thus excluding the 31st of any calendar month from the computation and treating February as if it actually had thirty days. Any person entering the service of the United States during a thirty-one day month and serving until the end thereof shall be entitled to pay for that month from the date of entry to the 30th day of said month, both days inclusive; and any person entering said service during the month of February and serving until the end thereof shall be entitled to one month's pay, less as many thirtieths thereof as there were days elapsed prior to date of entry. For one day's unauthorized absence on the 31st day of any calendar month one day's pay shall be forfeited. (June 30, 1906, ch. 3914, sec. 6, 34 Stat. 763.)

108. Copy for annual reports and accompanying documents.

113. Prohibition of contribution or presents to superiors.—No officer, clerk, or employee in the United States Government employ shall at any time solicit contributions from other officers, clerks, or employees in the Government service for a gift or present to those in a superior official position; nor shall any such officials or clerical superiors receive any gift or present offered or presented to them as a contribution from persons in Government employ receiving a less salary than themselves; nor shall any officer or clerk make any donation as a gift or present to any official superior. Every person who violates this section shall be summarily discharged from the Government employ. (R.S. sec. 1784.)

CHAPTER 12.—CIVIL SERVICE COMMISSION AND CLASSIFIED CIVIL SERVICE

NOTE.—Sections 631 to 652 of title 5 are comprised within the chapter relating to the classified civil service.

CHAPTER 13.—CLASSIFICATION OF CIVILIAN POSITIONS

NOTE.—Sections 661 to 673b of title 5 relate to the classification of civilian positions. With reference to the adjustment of the rates of compensation of civilian employees in certain of the field services, see sections 677 and 678 of title 5, hereinafter shown.

Section 677. Salaries of persons in the field service; payment.—Those civilian positions in the field services under the several executive departments and independent establishments, the compensation of which was fixed or limited by law but adjusted for the fiscal year 1925 under the authority and appropriations contained in the Act entitled "An Act making additional appropriations for the fiscal year ending June 30, 1925, to enable the heads of the several executive departments and independent establishments to adjust the rates of compensation of civilian employees in certain of the field services", approved December 6, 1924 (43 Stat. 704), may be paid under the applicable appropriations for the fiscal year 1929 and thereafter at rates not in excess of those permitted for them under the provisions of such Act of December 6, 1924. (Mar. 5, 1928, ch. 126, sec. 2, 45 Stat. 193.)

NOTE.—Sections 677 and 678 are affected by the provisions of section 2 of Act July 3, 1930 (46 Stat. 1005), which reads as follows:

"The heads of the several executive departments and independent establishments are authorized and directed to adjust the compensation of certain civilian positions in the field services, the compensation of which was adjusted by the Act of December 6, 1924 (43 Stat. 704), to correspond, so far as may be practicable, to the rates established by the Act of May 28, 1928 (U.S.C., Supp. 3, title 5, sec. 673), and by this Act for positions in the departmental services in the District of Columbia: *Provided*, That the terms of this Act shall apply to employees carried under Group 4-B, including drafting groups, in the Schedule of Wages for Civil Employees under the Naval Establishment, notwithstanding the fact that the compensation of such employees was not adjusted by the Act of December 6, 1924 (43 Stat. 704), or the Act of May 28, 1928 (U.S.C., Supp. 3, title 5, sec. 673)."

678. Same; adjustment by heads of executive departments and independent establishments.—The heads of the several executive departments and independent establishments are authorized to adjust the compensation of certain civilian positions in the field services, the compensation of which was adjusted by the Act of December 6, 1924, to correspond, so far as may be practicable, to the rates established by section 673 of this title for positions in the departmental services in the District of Columbia. (May 28, 1928, ch. 814, sec. 3, 45 Stat. 785.)

CHAPTER 14.—RETIREMENT OF CIVIL SERVICE EMPLOYEES

NOTE.—Sections 691a to 708a of title 5, comprise the Civil Service Retirement Act, as amended. See Canal Zone Code, title 2, section 107, which renders the Civil Service Retirement Act inapplicable, after July 1, 1931, to employees of the Panama Canal on the Isthmus of Panama and other employees coming within the provisions of the Canal Zone Retirement Act, but authorizes retirement under the former Act by employees of the Panama Canal who attain retirement age without having rendered sufficient service on the Isthmus to entitle them to be retired under the Canal Zone Retirement Act.

CHAPTER 15.—COMPENSATION FOR INJURIES TO EMPLOYEES OF UNITED STATES

Section 751. Disability or death of employee; willful misconduct.—The United States shall pay compensation as hereinafter specified for the disability or death of an employee resulting from a personal injury sustained while in the performance of his duty, but no compensation shall be paid if the injury or death is caused by the willful misconduct of the employee or by the employee's intention to bring about the injury or death of himself or of another, or if intoxication of the injured employee is the proximate cause of the injury or death. (Sept. 7, 1916, ch. 458, sec. 1, 39 Stat. 742.)

Cross-Reference

Application and administration of chapter in respect to Canal and Railroad employees, see sections 790 to 793 of this title; see also Canal Zone Code, title 2, sections 121 to 123.

Section 752. Time of accrual of right.—During the first three days of disability the employee shall not be entitled to compensation except as provided in section 759 of this title. No compensation shall at any time be paid for such period. (Sept. 7, 1916, ch. 458, sec. 2, 39 Stat. 743.)

753. Total disability.—If the disability is total the United States shall pay to the disabled employee during such disability a monthly compensation equal to 66⅔ per centum of his monthly pay, except as hereinafter provided. (Sept. 7, 1916, ch. 458, sec. 3, 39 Stat. 743.)

754. Partial disability; affidavit.—If the disability is partial the United States shall pay to the disabled employee during such disability a monthly compensation equal to 66⅔ per centum of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of such partial disability. The commission may, from time to time, require a partially disabled employee to make an affidavit as to the wages which he is then receiving. In such affidavit the employee shall include a statement of the value of housing, board, lodging, and other advantages which are received from the employer as a part of his remuneration and which can be estimated in money. If the employee, when required, fails to make such affidavit, he shall not be entitled to any compensation while such failure continues, and the period of such failure shall be deducted from the period during which compensation is payable to him. (Sept. 7, 1916, ch. 458, sec. 4, 39 Stat. 743.)

755. Same; employee to seek other employment.—If a partially disabled employee refuses to seek suitable work or refuses or neglects to work after suitable work is offered to, procured by, or secured for him, he shall not be entitled to any compensation. (Sept. 7, 1916, ch. 458, sec. 5, 39 Stat. 743.)

756. Monthly compensation for total and for partial disability; increase on basis of expectancy of productive capacity; decrease on account of age.—The monthly compensation for total disability shall not be more than $116.66, nor less than $58.33, unless the employee's monthly pay is less than $58.33, in which case his monthly compensation shall be the full amount of his monthly pay. The monthly compensation for partial disability shall not be more than $116.66. In the case of persons who at the time of the injury were minors or employed in a learner's capacity and who were not physically or mentally defective, the commission shall, on any review after the time when the monthly wage-earning capacity of such persons would probably, but for the injury, have increased, award compensation based on such probable monthly wage-earning capacity. The commission may, on any review after the time when the monthly wage-earning capacity of the disabled employee would probably, irrespective of the injury, have decreased on account of old age, award compensation based on such probable monthly wage-earning capacity. (Sept. 7, 1916, ch. 458, sec. 6, 39 Stat. 743; Feb. 12, 1927, ch. 110, sec. 1, 44 Stat. 1086.)

757. **Person receiving not to be paid for other services; pensions.**—As long as the employee is in receipt of compensation under this chapter, or, if he has been paid a lump sum in commutation of installment payments, until the expiration of the period during which such installment payments would have continued, he shall not receive from the United States any salary, pay, or remuneration whatsoever except in return for services actually performed, and except pensions for service in the Army or Navy of the United States. (Sept. 7, 1916, ch. 458, sec. 7, 39 Stat. 743.)

758. **Employee having annual or sick leave to his credit.**—If at the time the disability begins the employee has annual or sick leave to his credit he may, subject to the approval of the head of the department, use such leave until it is exhausted, in which case his compensation shall begin on the fourth day of disability after the annual or sick leave has ceased. (Sept. 7, 1916, ch. 458, sec. 8, 39 Stat. 743.)

759. **Medical, surgical, and hospital service; transportation expenses.**—For any injury sustained by an employee while in the performance of duty, whether or not disability has arisen, the United States shall furnish to the employee all services, appliances, and supplies prescribed or recommended by duly qualified physicians which, in the opinion of the commission, are likely to cure or to give relief or to reduce the degree or the period of disability or to aid in lessening the amount of the monthly compensation. Such services, appliances, and supplies shall be furnished by or upon the order of United States medical officers and hospitals, but where this is not practicable they shall be furnished by or upon the order of private physicians and hospitals designated or approved by the commission. For the securing of such services, appliances, and supplies, the employee may be furnished transportation, and may be paid all expenses incident to the securing of such services, appliances, and supplies, which, in the opinion of the commission, are necessary and reasonable. All such expenses when authorized or approved by the commission shall be paid from the employees' compensation fund. Any award heretofore made by the commission on account of expenses incurred under this section prior to June 26, 1926, shall be valid, if such award would be valid if made on account of expenses incurred

under this section after June 26, 1926. (Sept. 7, 1916, ch. 458, sec. 9, 39 Stat. 743; June 26, 1926, ch. 695, sec. 1, 44 Stat. 772.)

760. Compensation to heirs in case of death.—If death results from the injury within six years the United States shall pay to the following persons for the following periods a monthly compensation equal to the following percentages of the deceased employee's monthly pay, subject to the modification that no compensation shall be paid where the death takes place more than one year after the cessation of disability resulting from such injury, or, if there has been no disability preceding death, more than one year after the injury:

(A) To the widow, if there is no child, 35 per centum. This compensation shall be paid until her death or marriage.

(B) To the widower, if there is no child, 35 per centum if wholly dependent for support upon the deceased employee at the time of her death. This compensation shall be paid until his death or marriage.

(C) To the widow or widower, if there is a child, the compensation payable under clause (A) or clause (B) and in addition thereto 10 per centum for each child, not to exceed a total of 66⅔ per centum for such a widow or widower and children. If a child has a guardian other than the surviving widow or widower, the compensation payable on account of such child shall be paid to such guardian. The compensation payable on account of any child shall cease when he dies, marries, or reaches the age of eighteen, or, if over eighteen, and incapable of self-support, becomes capable of self-support.

(D) To the children, if there is no widow or widower, 25 per centum for one child and 10 per centum additional for each additional child, not to exceed a total of 66⅔ per centum, divided among such children share and share alike. The compensation of each child shall be paid until he dies, marries, or reaches the age of eighteen, or, if over eighteen and incapable of self-support, becomes capable of self-support. The compensation of a child under legal age shall be paid to its guardian.

(E) To the parents, if one is wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, 25 per centum; if both are wholly dependent, 20 per centum to each; if one is or both are partly dependent, a proportionate amount in the discretion of the commission.

The above percentages shall be paid if there is no widow, widower, or child. If there is a widow, widower, or child, there shall be paid so much of the above percentages as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of 66⅔ per centum.

(F) To the brothers, sisters, grandparents, and grandchildren, if one is wholly dependent upon the deceased employee for support at the time of his death, 20 per centum to such dependent; if more than one are wholly dependent, 30 per centum, divided among such dependents share and share alike; if there is no one of them wholly dependent, but one or more partly dependent, 10 per centum divided among such dependents share and share alike.

The above percentages shall be paid if there is no widow, widower, child, or dependent parent. If there is a widow, widower, child, or dependent parent, there shall be paid so much of the above percentages as, when added to the total percentage payable to the widow, widower, children, and dependent parents, will not exceed a total of 66⅔ per centum.

(G) The compensation of each beneficiary under clauses (E) and (F) shall be paid for a period of eight years from the time of the death, unless before that time he, if a parent or grandparent, dies, marries, or ceases to be dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen or, if over eighteen and incapable of self-support, becomes capable of self-support. The compensation of a brother, sister, or grandchild under legal age shall be paid to his or her guardian.

(H) As used in this section, the term " child " includes stepchildren, adopted children, and posthumous children, but does not include married children. The terms " brother " and " sister " include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers or married sisters. All of the above terms and the term " grandchild " include only persons who at the time of the death of the deceased employee are under eighteen years of age or over that age and incapable of self-support. The term " parent " includes stepparents and parents by adoption. The term " widow " includes only the decedent's wife living with or dependent for support upon him at the time of his death or living apart for reasonable cause or by reason of his desertion.

(I) Upon the cessation of compensation under this section to or on account of any person, the compensation of the remaining persons entitled to compensation for the unexpired part of the period during which their compensation is payable shall be that which such persons would have received if they had been the only persons entitled to compensation at the time of the decedent's death.

(J) In case there are two or more classes of persons entitled to compensation under this section and the apportionment of such compensation, above provided, would result in injustice, the commission may, in its discretion, modify the apportionment to meet the requirements of the case.

(K) In computing compensation under this section the monthly pay shall be considered not to be more than $175 nor less than $87.50, but the total monthly compensation shall not exceed the monthly pay computed as provided in section 762.

(L) If any person entitled to compensation under this section, whose compensation by the terms of this section ceases upon his marriage, accepts any payments of compensation after his marriage he shall be punished by a fine of not more than $2,000 or by imprisonment for not more than one year, or by both such fine and imprisonment. (Sept. 7, 1916, ch. 458, sec. 10, 39 Stat. 744; Feb. 12, 1927, ch. 110, secs. 2, 3, 44 Stat. 1087.)

761. Payment to personal representative where death results within six years; transportation of remains; burial expenses.—If death results from the injury within six years the United States shall pay to the personal representative of the deceased employee funeral and burial expenses not to exceed $200, in the discretion of the commission. In the case of an employee whose home is within the United

States, if his death occurs away from his home office or outside of the United States, and if so desired by his relatives, the body shall, in the discretion of the commission, be embalmed and transported in a hermetically sealed casket to the home of the employee. Such funeral and burial expenses shall not be paid and such transportation shall not be furnished where the death takes place more than one year after the cessation of disability resulting from such injury or, if there has been no disability preceding death, more than one year after the injury. (Sept. 7, 1916, ch. 458, sec. 11, 39 Stat. 745; Feb. 12, 1927, ch. 110, sec. 4, 44 Stat. 1087.)

762. Computation of monthly pay of employee.—In computing the monthly pay the usual practice of the service in which the employee was employed shall be followed. Subsistence and the value of quarters furnished an employee shall be included as part of the pay, but overtime pay shall not be taken into account. (Sept. 7, 1916, ch. 458, sec. 12, 39 Stat. 746.)

763. Wage-earning capacity.—In the determination of the employee's monthly wage-earning capacity after the beginning of partial disability, the value of housing, board, lodging, and other advantages which are received from his employer as a part of his remuneration and which can be estimated in money shall be taken into account. (Sept. 7, 1916, ch. 458, sec. 13, 39 Stat. 746.)

764. Payment of lump sum; determination of amount.—In cases of death or of permanent total or permanent partial disability, if the monthly payment to the beneficiary is less than $5 a month, or if the beneficiary is or is about to become a nonresident of the United States, or if the commission determines that it is for the best interests of the beneficiary, the liability of the United States for compensation to such beneficiary may be discharged by the payment of a lump sum equal to the present value of all future payments of compensation computed at 4 per centum true discount compounded annually. The probability of the beneficiary's death before the expiration of the period during which he is entitled to compensation shall be determined according to the American Experience Table of Mortality; but in case of compensation to the widow or widower of the deceased employee, such lump sum shall not exceed sixty months' compensation. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded. (Sept. 7, 1916, ch. 458, sec. 14, 39 Stat. 746.)

765. Notice of injury.—Every employee injured in the performance of his duty, or someone on his behalf, shall, within forty-eight hours after the injury, give written notice thereof to the immediate superior of the employee. Such notice shall be given by delivering it personally or by depositing it properly stamped and addressed in the mail. (Sept. 7, 1916, ch. 458, sec. 15, 39 Stat. 746.)

766. Same; requisites.—The notice shall state the name and address of the employee, the year, month, day, and hour when and the particular locality where the injury occurred, and the cause and nature of the injury, and shall be signed by and contain the address of the person giving the notice. (Sept. 7, 1916, ch. 458, sec. 16, 39 Stat. 746.)

767. Same; failure to give.—Unless notice is given within the time specified or unless the immediate superior has actual knowledge of the injury, no compensation shall be allowed, but for any reasonable cause shown, the commission may allow compensation if the notice is filed within one year after the injury. (Sept. 7, 1916, ch. 458, sec. 17, 39 Stat. 746.)

768. Written claim.—No compensation under this chapter shall be allowed to any person, except as provided in section 788 of this title. unless he or some one on his behalf shall, within the time specified in section 770 of this title, make a written claim therefor. Such claim shall be made by delivering it at the office of the commission or to any commissioner or to any person whom the commission may by regulation designate, or by depositing it in the mail properly stamped and addressed to the commission or to any person whom the commission may by regulation designate. (Sept. 7, 1916, ch. 458, sec. 18, 39 Stat. 746.)

769. Same; form and requisites; waiver.—Every claim shall be made on forms to be furnished by the commission and shall contain all the information required by the commission. Each claim shall be sworn to by the person entitled to compensation or by the person acting on his behalf, and, except in case of death, shall be accompanied by a certificate of the employee's physician stating the nature of the injury and the nature and probable extent of the disability. For any reasonable cause shown the commission may waive the provisions of this section. (Sept. 7, 1916, ch. 458, sec. 19, 39 Stat. 746.)

770. Time for making claims.—All original claims for compensation for disability shall be made within sixty days after the injury. All original claims for compensation for death shall be made within one year after the death. For any reasonable cause shown the commission may allow original claims for compensation for disability to be made at any time within one year. (Sept. 7, 1916, ch. 458, sec. 20, 39 Stat. 747; June 13, 1922, ch. 219, 42 Stat. 650.)

771. Physical examinations; refusal to submit to.—After the injury the employee shall, as frequently and at such times and places as may be reasonably required, submit himself to examination by a medical officer of the United States or by a duly qualified physician designated or approved by the commission. The employee may have a duly qualified physician designated and paid by him present to participate in such examination. If the employee refuses to submit himself for or in any way obstructs any examination, his right to claim compensation under this chapter shall be suspended until such refusal or obstruction ceases. No compensation shall be payable while such refusal or obstruction continues, and the period of such refusal or obstruction shall be deducted from the period for which compensation is payable to him.

For any examination required by the commission the employee shall be paid all expenses incident to such examination which, in the opinion of the commission, are necessary and reasonable, including transportation and loss of wages incurred in order to submit to examination. All such expenses when authorized or approved by the commission shall be paid from the employees' compensation fund. (Sept. 7, 1916, ch. 458, sec. 21, 39 Stat. 747; June 26, 1926, ch. 695, sec. 2, 44 Stat. 772.)

772. Same; disagreement between physicians.—In case of any disagreement between the physician making an examination on the part of the United States and the employee's physician the commission shall appoint a third physician, duly qualified, who shall make an examination. (Sept. 7, 1916, ch. 458, sec. 22, 39 Stat. 747.)

773. Same; physicians' fees.—Fees for examinations made on the part of the United States under sections 771 and 772 of this title by physicians who are not already in the service of the United States shall be fixed by the commission. Such fees, and any sum payable to the employee under section 771, when authorized or approved by the commission, shall be paid from the employees' compensation fund. (Sept. 7, 1916, ch. 458, sec. 23, 39 Stat. 747; June 26, 1926, ch. 695, sec. 3, 44 Stat. 772.)

774. Report to commission as to injury.—Immediately after an injury to an employee resulting in his death or in his probable disability, his immediate superior shall make a report to the commission containing such information as the commission may require, and shall thereafter make such supplementary reports as the commission may require. (Sept. 7, 1916, ch. 458, sec. 24, 39 Stat. 747.)

775. Assignment of claim for compensation.—Any assignment of a claim for compensation under this chapter shall be void and all compensation and claims therefor shall be exempt from all claims of creditors. (Sept. 7, 1916, ch. 458, sec. 25, 39 Stat. 747.)

776. Subrogation of United States to employee's right of action; assignment by employee; disposition of moneys collected from person liable.—If an injury or death for which compensation is payable under this chapter is caused under circumstances creating a legal liability upon some person other than the United States to pay damages therefor, the commission may require the beneficiary to assign to the United States any right of action he may have to enforce such liability of such other person or any right which he may have to share in any money or other property received in satisfaction of such liability of such other person, or the commission may require said beneficiary to prosecute said action in his own name.

If the beneficiary shall refuse to make such assignment or to prosecute said action in his own name when required by the commission, he shall not be entitled to any compensation under this chapter.

The cause of action when assigned to the United States may be prosecuted or compromised by the commission, and if the commission realizes upon such cause of action, it shall apply the money or other property so received in the following manner: After deducting the amount of any compensation already paid to the beneficiary and the expense of such realization or collection, which sum shall be placed to the credit of the employees' compensation fund, the surplus, if any, shall be paid to the beneficiary and credited upon any future payments of compensation payable to him on account of the same injury. (Sept. 7, 1916, ch. 458, sec. 26, 39 Stat. 747.)

777. Adjustment in case of receipt by employee of money or property in satisfaction of liability of third person.—If an injury or death for which compensation is payable under this chapter is caused under circumstances creating a legal liability in some person other than the United States to pay damages therefor, and a beneficiary entitled to compensation from the United States for such injury or death receives, as a result of a suit brought by him or on his behalf, or as a result of a settlement made by him or on his behalf, any money or other property in satisfaction of the liability of such other person, such beneficiary shall, after deducting the costs of suit and a reasonable attorney's fee, apply the money or other property so received in the following manner:

(A) If his compensation has been paid in whole or in part, he shall refund to the United States the amount of compensation which has been paid by the United States and credit any surplus upon future payments of compensation payable to him on account of the same injury. Any amount so refunded to the United States shall be placed to the credit of the employees' compensation fund.

(B) If no compensation has been paid to him by the United States, he shall credit the money or other property so received upon any compensation payable to him by the United States on account of the same injury. (Sept. 7, 1916, ch. 458, sec. 27, 39 Stat. 747.)

778. United States Employees' Compensation Commission.—The United States Employees' Compensation Commission shall be composed of three commissioners appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as chairman. No commissioner shall hold any other office or position under the United States. No more than two of said commissioners shall be members of the same political party. One of said commissioners shall be appointed for a term of two years, one for a term of four years, and one for a term of six years, and at the expiration of each of said terms, the commissioner then appointed shall be appointed for a period of six years. The principal office of said commission shall be in Washington, District of Columbia, but the said commission is authorized to perform its work at any place deemed necessary by said commission, subject to the restrictions and limitations of this chapter. (Sept. 7, 1916, ch. 458, sec. 28, 39 Stat. 748.)

779. Same; other official bodies discontinued; reports from other departments to; transfer of clerks and employees.—Upon the organization of said commission and notification to the heads of all executive departments that the commission is ready to take up the work devolved upon it by this chapter, all commissions and independent bureaus, by or in which payments for compensation were provided, on September 7, 1916, together with the adjustment and settlement of such claims, shall cease and determine, and such executive departments, commissions, and independent bureaus shall transfer all pending claims to said commission to be administered by it. The said commission may obtain, in all cases, in addition to the reports provided in section 774 of this title, such information and such reports from employees of the departments as may be agreed upon by the commission and the heads of the respective departments. All clerks and employees on September 7, 1916, exclusively engaged in carrying on said work in the various executive departments, commissions, and independent bureaus, are transferred to, and become employees of, the commission at their present grades and salaries. (Sept. 7, 1916, ch. 458, sec. 28a, 39 Stat. 748.)

780. Same; subpœnas for witnesses.—The commission, or any commissioner by authority of the commission, shall have power to issue subpœnas for and compel the attendance of witnesses within a radius of one hundred miles, to require the production of books, papers, documents, and other evidence, to administer oaths, and to examine witnesses, upon any matter within the jurisdiction of the commission. (Sept. 7, 1916, ch. 458, sec. 29, 39 Stat. 748.)

781. Same; assistants, clerks, and other employees; civil service.—Assistants, clerks, and other employees of the commission shall be appointed from lists of eligibles to be supplied by the Civil Service Commission, and in accordance with the civil service law. (Sept. 7, 1916, ch. 458, sec. 30, 39 Stat. 748.)

782. Same; estimates of appropriations.—The commission shall submit annually to the Secretary of the Treasury estimates of the appropriations necessary for the work of the commission. (Sept. 7, 1916, ch. 458, sec. 31, 39 Stat. 749.)

783. Same; rules and regulations.—The commission is authorized to make necessary rules and regulations for the enforcement of this chapter, and shall decide all questions arising under this chapter. (Sept. 7, 1916, ch. 458, sec. 32, 39 Stat. 749.)

784. Same; reports.—The commission shall make to Congress at the beginning of each regular session a report of its work for the preceding fiscal year, including a detailed statement of appropriations and expenditures, a detailed statement showing receipts of and expenditures from the employees' compensation fund, and its recommendations for legislation. (Sept. 7, 1916, ch. 458, sec. 33, 39 Stat. 749.)

785. Employees' compensation fund.—There is authorized to be appropriated, from any money in the Treasury not otherwise appropriated, the sum of $500,000, to be set aside as a separate fund in the Treasury, to be known as the employees' compensation fund. To this fund there shall be added such sums as Congress may from time to time appropriate for the purpose. Such fund, including all additions that may be made to it, is authorized to be permanently appropriated for the payment of the compensation provided by this chapter, including the medical, surgical, and hospital services and supplies provided by section 759 of this title, and the transportation and burial expenses provided by sections 759 and 761 of this title. The commission shall submit annually to the Secretary of the Treasury estimates of the appropriations necessary for the maintenance of the fund. (Sept. 7, 1916, ch. 458, sec. 35, 39 Stat. 749.)

786. Findings and award by commission; payment of compensation.—The commission, upon consideration of the claim presented by the beneficiary, and the report furnished by the immediate superior and the completion of such investigation as it may deem necessary, shall determine and make a finding of facts thereon and make an award for or against payment of the compensation provided for in this chapter. Compensation when awarded shall be paid from the employees' compensation fund. (Sept. 7, 1916, ch. 458, sec. 36, 39 Stat. 749.)

787. Same; review.—If the original claim for compensation has been made within the time specified in section 770 of this title, the commission may, at any time, on its own motion or on application. review the award, and, in accordance with the facts found on such review, may end, diminish, or increase the compensation previously awarded, or, if compensation has been refused or discontinued, award compensation. In the absence of fraud or mistake in mathematical calculation, the finding of facts in, and the decision of the commission upon, the merits of any claim presented under or authorized by this chapter if supported by competent evidence shall not be subject to review by any other administrative or accounting officer, employee, or agent of the United States. Any award made by the Compensation Commission for disability or death resulting from a personal injury sustained prior to June 5, 1924, shall be valid, if such award would be valid if made in respect to an injury sustained thereafter. (Sept. 7, 1916, ch. 458, sec. 37, 39 Stat. 749; June 5, 1924, ch. 261, sec. 1, 43 Stat. 389.)

788. Same; cancellation; recovery of compensation paid.—If any compensation is paid under a mistake of law or of fact, the commission shall immediately cancel any award under which such compensation has been paid and shall recover, as far as practicable, any amount which has been so paid. Any amount so recovered shall be placed to the credit of the employees' compensation fund. (Sept. 7, 1916, ch. 458, sec. 38, 39 Stat. 749.)

789. Penalty for perjury.—Whoever makes, in any affidavit required under section 754 of this title or in any claim for compensation, any statement, knowing it to be false, shall be guilty of perjury and shall be punished by a fine of not more than $2,000, or by imprisonment for not more than one year, or by both such fine and imprisonment. (Sept. 7, 1916, ch. 458, sec. 39, 39 Stat. 749.)

790. Terms defined.—Wherever used in this chapter—

The singular includes the plural and the masculine includes the feminine.

The term "employee" includes all civil employees of the United States and of the Panama Railroad Company.

The term "commission" shall be taken to refer to the United States Employees' Compensation Commission provided for in section 778 of this title.

The term "physician" includes surgeons.

The term "monthly pay" shall be taken to refer to the monthly pay at the time of the injury.

The term "injury" includes, in addition to injury by accident, any disease proximately caused by the employment.

The term "compensation" includes the money allowance payable to an employee or his dependents and any other benefits paid for out of the compensation fund: *Provided*, *however*, That this shall not in any way reduce the amount of the monthly compensation payable in case of disability or death. (Sept. 7, 1916, ch. 458, sec. 40, 39 Stat. 750; June 5, 1924, ch. 261, sec. 2, 43 Stat. 389.)

791. Injuries which occurred prior to September 7, 1916; injuries for which Panama Railroad Company liable.—For injuries which occurred prior to September 7, 1916, compensation shall be paid under the law then in force. If an injury or death for which compensation is payable under this chapter is caused under circumstances creating a legal liability in the Panama Railroad Company to pay damages therefor under the laws of any State, Territory, or possession of the United States or of the District of Columbia or of any foreign country, no compensation shall be payable until the person entitled to compensation releases to the Panama Railroad Company any right of action which he may have to enforce such liability of the Panama Railroad Company, or until he assigns to the United States any right which he may have to share in any money or other property received in satisfaction of such liability of the Panama Railroad Company. (Sept. 7, 1916, ch. 458, sec. 41, 39 Stat. 750.)

NOTE.—Sections 792, 794 and 795 of this title are not shown since they relate, respectively, to employees of the Alaska Railroad, the District of Columbia, and the Shipping Board Merchant Fleet Corporation.

793. Transfer of administration of chapter to other bodies; regulations as to payment; employees of Panama Canal and of Alaskan Engineering Commission.—The President may, from time to time, transfer the administration of this chapter so far as employees of the Panama Canal and of the Panama Railroad Company are concerned to the governor of the Panama Canal, and so far as employees of the Alaskan Engineering Commission are concerned to the chairman of that commission, in which cases the words "commission" and "its" wherever they appear in this chapter shall, so far as necessary to give effect to such transfer, be read "governor of the Panama Canal" or "chairman of the Alaskan Engineering Commission," as the case may be, and "his"; and the expenses of medical examinations under section 771 and 772 of this title, and the reasonable traveling and other expenses and loss of wages payable to employees under section 771, shall be paid out of appropriations for the Panama Canal or for the Alaskan Engineering Commission or out of funds of the Panama Railroad, as the case may be, instead of out of the appropriation for the work of the commission.

In the case of compensation to employees of the Panama Canal or of the Panama Railroad Company for temporary disability, either total or partial, the President may authorize the governor of the Panama Canal to waive, at his discretion, the making of the claim required by section 768. In the case of alien employees of the Panama Canal or of the Panama Railroad Company, or of any class or classes of them, the President may remove or modify the minimum limit established by section 756 of this title on the monthly compensation for disability and the minimum limit established by clause (K) of section 760 of this title on the monthly pay on which death compensation is to be computed. The President may authorize the governor of the Panama Canal and the chairman of the Alaskan Engineering Commission to pay the compensation provided by this chapter, including the medical, surgical, and hospital services and supplies provided by section 759 of this title and the transportation and burial expenses provided by sections 759 and 761 of this title, out of the appropriations for the Panama Canal and for the Alaskan Engineering Commission, such appropriations to be reimbursed for such payments by the transfer of funds from the employees' compensation fund. (Sept. 7, 1916, ch. 458, sec. 42, 39 Stat. 750.)

CROSS-REFERENCE

See, also, Canal Zone Code, title 2, sections 121 to 123.

CHAPTER 16.—SUBSISTENCE EXPENSE ACT OF 1926

Section 821. Citation.—Sections 821 to 833 of this title may be cited as the "Subsistence Expense Act of 1926." (June 3, 1926, ch. 457, sec. 1, 44 Stat. 688.)

NOTE.—The following sections of chapter 16, are not shown: Sections 824 to 826, which were repealed in 1932; and sections 830 to 833, which relate, respectively, to travel allowances of the President, travel allowances of postal clerks, appropriations for 1927, and the effective date of the Act.

This chapter is affected by section 73a of title 5, hereinbefore shown.

822. Definitions.—When used in sections 821 to 833 of this title—

The term "departments and establishments" means any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including the municipal government of the District of Columbia.

The term "subsistence" means lodging, meals, and other necessary expenses incidental to the personal sustenance or comfort of the traveler.

The term "actual expenses" means the actual amounts necessarily expended by the traveler for subsistence and itemized in accounts for reimbursement.

The term "per diem allowance" means a daily flat rate of payment in lieu of actual expenses. (June 3, 1926, ch. 457, sec. 2, 44 Stat. 689.)

823. Officers and employees away on official business; allowance of actual necessary expenses.—Civilian officers and employees of the departments and establishments, while traveling on official business and away from their designated posts of duty, shall be allowed, in lieu of their actual expenses for subsistence and all fees or tips to porters and stewards, a per diem allowance to be prescribed by the head of the department or establishment concerned, not to exceed the rate of $5 within the limits of continental United States, and not to exceed an average of $6 beyond the limits of continental United States. (June 3, 1926, ch. 457, sec. 3, 44 Stat. 689; June 30, 1932, ch. 314, sec. 207, 47 Stat. 405.)

CROSS-REFERENCE

Transportation of Government officials on ships registered under the laws of the United States, see title 46, section 891r.

823a. Transportation of effects; automobiles.—After July 1, 1932, no law or regulation authorizing or permitting the transportation at Government expense of the effects of officers, employees, or other persons, shall be construed or applied as including or authorizing the transportation of an automobile: *Provided*, That not more than $5,000 in any fiscal year may be expended for such purposes by the War Department, and not more than $5,000 in any fiscal year by the Navy Department. (June 30, 1932, ch. 314, sec. 209, 47 Stat. 405.)

827. Regulations governing expenses or per diem; standardization.—The fixing and payment, under section 823 of this title, of per diem allowance, or portions thereof, shall be in accordance with regulations which shall be promulgated by the heads of departments and establishments and which shall be standardized as far as practicable and shall not be effective until approved by the President of the United States. (June 3, 1926, ch. 457, sec. 7, 44 Stat. 689; June 30, 1932, ch. 314, sec. 208, 47 Stat. 405.)

828. Advancements and deduction thereof.—The heads of departments and establishments, under regulations which shall be prescribed by the Secretary of the Treasury for the protection of the United States, may advance through the proper disbursing officers from applicable appropriations to any person entitled to actual expenses or per diem allowance under sections 821 to 833 of this title such sums as may be deemed advisable considering the character and probable duration of the travel to be performed. Any sums so advanced shall be recovered from the person to whom advanced, or his estate, by deduction from any amount due from the United States or by such other legal method of recovery as may be necessary. (June 3, 1926, ch. 457, sec. 8, 44 Stat. 689.)

829. Repeal of inconsistent laws; exceptions.—All laws or parts of laws which are inconsistent with or in conflict with the provisions of sections 821 to 833 of this title except such laws or parts of law as specially fix or now permit rates higher than the maximum rates established in said sections are hereby repealed or modified only to the extent of such inconsistency`or conflict. (June 3, 1926, ch. 457, sec. 9, 44 Stat. 689.)

UNITED STATES CODE, TITLE 6

OFFICIAL AND PENAL BONDS

NOTE.—For provisions respecting official bonds, see title 6, sections 2 et seq.

UNITED STATES CODE, TITLE 7

AGRICULTURE

Section 116. Misbranded seed; transportation in interstate commerce.—

NOTE.—Interstate commerce as used in section 116 includes "commerce between any State, Territory, or possession, or the District of Columbia, and any other State, Territory, or possession, or the District of Columbia; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia."

UNITED STATES CODE, TITLE 8

ALIENS AND CITIZENSHIP

CHAPTER 1.—CITIZENSHIP

Section 5b. Citizenship of natives of Virgin Islands residing in Canal Zone.—The following persons and their children born subsequent to January 17, 1917, are hereby declared to be citizens of the United States:

* * * * * * *

(*d*) All natives of the Virgin Islands of the United States who are, on June 28, 1932, residing in continental United States, the Virgin Islands of the United States, Puerto Rico, the Canal Zone, or any other insular possession or Territory of the United States, who are not citizens or subjects of any foreign country, regardless of their place of residence on January 17, 1917. (Feb. 25, 1927, ch. 192, sec. 1, 44 Stat. 1234, as amended June 28, 1932, ch. 283, sec. 5, 47 Stat. 336.)

NOTE.—Act Feb. 25, 1927, cited to the text, was entitled "An Act to confer United States citizenship upon certain inhabitants of the Virgin Islands and to extend the naturalization laws thereto."

CHAPTER 6.—IMMIGRATION

Section 136. Exclusion from United States of certain aliens seeking entry by way of Canal Zone.—(Feb. 5, 1917, ch. 29, sec. 3, 39 Stat. 875; June 5, 1920, ch. 243, 41 Stat. 981.)

NOTE.—Paragraph (h) of section 136, excluding contract laborers from admission into the United States, contains a proviso which reads as follows:

"*And provided further*, That whenever the President shall be satisfied that passports issued by any foreign Government to its citizens or subjects to go to any country other than the United States, or to any insular possession of the United States or to the Canal Zone, are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possession or from the Canal Zone."

173. Term "United States" as excluding Canal Zone; status of alien leaving Zone and attempting to enter other place under jurisdiction of United States.—The word "alien" wherever used in sections 132, 136, 138, 139, 142 to 156, 158 to 165, 166 (second sentence), 168, 169, 171, 175, 177, and 178 of this title, shall include any person not a native-born or naturalized citizen of the United States; but this definition shall not be held to include citizens of the islands under the jurisdiction of the United States.

The term " United States " shall be construed to mean the United States, and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone or any insular possession of the United States and attempt to enter any other place under the jurisdiction of the United States, nothing contained in said sections shall be construed as permitting him to enter under any other conditions than those applicable to all aliens.

* * * * * * *

(Feb. 5, 1917, ch. 29, secs. 1, 37, 39 Stat. 874, 897; June 2, 1924, ch. 233, 43 Stat. 253.)

NOTE.—The Act of Feb. 5, 1917, ch. 29, cited to the text, was entitled "An Act to regulate the immigration of aliens to, and the residence of aliens in, the United States." The Act comprises the above section and the sections enumerated therein.

204. Nonquota immigrant as including immigrant born in Canal Zone.—When used in this subchapter the term " nonquota immigrant " means—

* * * * * * *

(c) An immigrant who was born in the Dominion of Canada, Newfoundland, the Republic of Mexico, the Republic of Cuba, the Republic of Haiti, the Dominican Republic, the Canal Zone, or an independent country of Central or South America, and his wife, and his unmarried children under eighteen years of age, if accompanying or following to join him;

* * * * * * *

(May 26, 1924, ch. 190, sec. 4, 43 Stat. 155.)

NOTE.—The subchapter above referred to relates to quota and nonquota immigrants and comprises the Immigration Act of 1924 (secs. 201 to 230 of title 8).

224. Consular officer defined in the case of the Canal Zone.—As used in this subchapter—

* * * * * * *

(e) The term " consular officer " means any consular or diplomatic officer of the United States designated, under regulations prescribed under this subchapter, for the purpose of issuing immigration visas under this subchapter. In case of the Canal Zone and the insular possessions of the United States the term " consular officer " (except as used in section 222 of this title) means an officer designated by the President, or by his authority, for the purpose of issuing immigration visas under this subchapter;

* * * * * * *

(May 26, 1924, ch. 190, sec. 28, 43 Stat. 168; June 2, 1924, ch. 233, 43 Stat. 253.)

NOTE.—The subchapter above referred to comprises the " Immigration Act of 1924." Section 222 of title 8, provides that rules and regulations for the enforcement of the subchapter, so far as they relate to administration by consular officers, shall be prescribed by the Secretary of State on the recommendation of the Secretary of Labor.

CHAPTER 9.—NATURALIZATION

Section 389. Alien declarant honorably discharged from Army, Navy, etc., subsequently accepted conditionally in military or naval service; residence in Canal Zone considered residence within United States.—Any alien declarant who has served in the United States Army or Navy, or the Philippine Constabulary, and has been honorably discharged therefrom, and has been accepted for service in either the military or naval service of the United States on the condition that he becomes a citizen of the United States, may file his petition for naturalization upon proof of continuous residence within the United States for the three years immediately preceding his petition, by two witnesses, citizens of the United States, and in these cases only residence in the Philippine Islands and the Panama Canal Zone by aliens may be considered residence within the United States, and the place of such military service shall be construed as the place of residence required to be established for purposes of naturalization. (June 29. 1906, ch. 3592, sec. 4 (7); May 9, 1918, ch. 69, sec. 1, 40 Stat. 542.)

UNITED STATES CODE, TITLE 10

ARMY

Section 371. Government employees as reserve officers; leaves of absence when ordered to duty.—All officers and employees of the United States or of the District of Columbia who shall be members of the Officers' Reserve Corps shall be entitled to leave of absence from their respective duties, without loss of pay, time, or efficiency rating, on all days during which they shall be ordered to duty with troops or at field exercises, or for instruction, for periods not to exceed fifteen days in any one calendar year; and when relieved from duty, they shall be restored to the positions held by them when ordered to duty. (May 12, 1917, ch. 12, 40 Stat. 72.)

916. Disposition of remains of civilian employees of Army who die in Canal Zone.—(Mar. 9, 1928, ch. 162, 45 Stat. 251.)

NOTE.—This section authorizes the appropriation of funds for interment or preparation and transportation to their homes of the remains of civilian employees of the Army who die in the Canal Zone.

UNITED STATES CODE, TITLE 12

BANKS AND BANKING

Section 95a. Embargo on bullion or coin; hoarding; requirement of disclosure; penalties.—(As amended Mar. 9, 1933, ch. 1, sec. 2, 48 Stat. 1.)

NOTE.—This section authorizes the President during periods of national emergency to regulate or prohibit any transactions in foreign exchange, transfers of credit between or payments by banking institutions, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, by "any person within the United States or any place subject to the jurisdiction thereof." The section further provides for the punishment of wilful violators. See, also, section 95b of this title.

201 to 211. Bank Conservation Act.—(Mar. 9, 1933, ch. 1, title II, 48 Stat. 2.)

Note.—As used in these sections comprising the Bank Conservation Act, the term "State" means "any State, Territory, or possession of the United States, and the Canal Zone."

611 to 632. Organization of corporations to engage in banking in a dependency of United States.—

Note.—These sections relate to the organization of corporations for the purpose of engaging in international or foreign banking or other international or foreign financial operations, or in banking or other financial operations in a dependency or insular possession of the United States. Section 611, after authorizing the formation of such corporations, provides as follows:

"*Provided*, That nothing in this section shall be construed to deny the right of the Secretary of the Treasury to use any corporation organized under this section as depositaries in Panama and the Panama Canal Zone, or in the Philippine Islands and other insular possessions and dependencies of the United States."

UNITED STATES CODE, TITLE 13

CENSUS

Section 201. Authorization of decennial censuses; scope of inquiries; census of Canal Zone.—A census of population, agriculture, irrigation, drainage, distribution, unemployment, and mines shall be taken by the Director of the Census in the year 1930 and every ten years thereafter. The census herein provided for shall include each State, the District of Columbia, Alaska, Hawaii, and Porto Rico. A census of Guam, Samoa, and the Virgin Islands shall be taken in the same year by the respective governors of said islands and a census of the Panama Canal Zone by the Governor of the Canal Zone, all in accordance with plans prescribed or approved by the Director of the Census. (June 18, 1929, ch. 28, sec. 1, 46 Stat. 21.)

Note.—The Act cited to the text was entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress."

Section 20 of said Act (46 Stat. 26) provided as follows: "For the purpose of carrying out the provisions of this Act (chapter) during the fifteenth decennial census period, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $39,593,000."

UNITED STATES CODE, TITLE 15

COMMERCE AND TRADE

Ch.	Sec.
1. Monopolies and combinations in restraint of trade	12
2A. Securities Act of 1933	77a
3. Trade marks	81
11. Federal Caustic Poison Act	401

CHAPTER 1.—MONOPOLIES AND COMBINATIONS IN RESTRAINT OF TRADE

Sections 12 to 27. Monopolies and combinations in restraint of trade.—(Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended.)

Note.—These sections were derived from an act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", cited above, and commonly known as the Clayton Act.

As defined in section 12, "commerce", as used in said sections 12 to 27, means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisidiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That nothing in the aforesaid sections contained shall apply to the Philippine Islands."

Secton 9 of the Clayton Act, making it a felony for an officer of a common carrier to embezzle its funds, constitutes section 412 of title 18. Sections 17–19 and 21–25 of that Act, relating to injunctive relief, constitute sections 381–383 and 386–390 of title 28. Section 20 of that Act, relating to injunctions in labor strikes, constitutes section 52 of title 29.

31. Panama Canal closed to violators of antitrust laws.—

Note.—This section appears in the Canal Zone Code as section 11 of title 2.

CHAPTER 2A.—SECURITIES ACT OF 1933

Sections 77a to 77aa. Securities Act of 1933.—(May 27, 1933, ch. 38, title 1, 48 Stat. 74.)

Note.—The act above cited was entitled "An Act to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof, and for other purposes."

The term "Territory", as defined in section 77b (6), means Alaska, Hawaii, Puerto Rico, the Philippine Islands, Canal Zone, the Virgin Islands, and the insular possessions of the United States.

The term "interstate commerce", as defined in section 77b (7), means trade or commerce in securities or any transportation or communication relating thereto among the several States or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia.

This subchapter regulates the use of any means or instruments of transportation or communication in interstate commerce or of the mails in connection with the sale or offer to buy securities, as defined in the subchapter and subject to the exceptions therein contained, through the medium of a prospectus or otherwise, the carriage of securities for the purpose of sale or for delivery after sale, and the carriage or transmission of prospectuses relating to securities registered under the subchapter.

Section 77v confers jurisdiction upon the "United States courts of any Territory" of offenses and violations under the subchapter and under the rules and regulations of the Federal Trade Commission, and of suits in equity and actions at law brought to enforce any liability under the subchapter.

CHAPTER 3.—TRADE MARKS

Sections 81 to 134. Trade Marks.—

Note.—See Canal Zone Code, title 3, section 391, rendering the trade-mark laws of the United States of the same force and effect in the Canal Zone as in the United States, and conferring jurisdiction in actions arising under such laws upon the district court.

CHAPTER 11.—FEDERAL CAUSTIC POISON ACT

Section 401. Citation.—This chapter may be cited as the Federal Caustic Poison Act. (Mar. 4, 1927, ch. 489, sec. 1, 44 Stat. 1406.)

Note.—The Act cited to the text was entitled "An Act to safeguard the distribution and sale of certain dangerous caustic or corrosive acids, alkalies, and other substances in interstate and foreign commerce."

402. Definitions.—As used in this chapter, unless the context otherwise requires—

(a) The term "dangerous caustic or corrosive substance" means:

(1) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 per centum or more;

(2) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of 10 per centum or more;

(3) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of 5 per centum or more;

(4) Carbolic acid (C_6H_5OH), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of 5 per centum or more;

(5) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of 10 per centum or more;

(6) Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 per centum or more;

(7) Acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of 20 per centum or more;

(8) Hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;

(9) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 per centum or more;

(10) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide ($NaOH$), including caustic soda and lye, in a concentration of 10 per centum or more;

(11) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of 5 per centum or more; and

(12) Ammonia water and any preparation containing free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn", in a concentration of 5 per centum or more.

(b) The term "misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance not bearing a conspicuous, easily legible label or sticker, containing—

(1) The common name of the substance;

(2) The name and place of business of the manufacturer, packer, seller, or distributor;

(3) The word "poison," running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four point size

unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and

(4) Directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance, except that such directions need not appear on labels or stickers, on parcels, packages or containers at the time of shipment or of delivery for shipment by manufacturers and wholesalers for other than household use.

(c) The term "interstate or foreign commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or within any Territory or possession, or the District of Columbia.

(d) This chapter is not to be construed as modifying or limiting in any way the right of any person to manufacture, pack, ship, sell, barter, and distribute dangerous caustic or corrosive substances in parcels, packages, or containers, labeled as required by this chapter. (Mar. 4, 1927, ch. 489, sec. 2, 44 Stat. 1406.)

403. Prohibition against misbranded shipments.—No person shall ship or deliver for shipment in interstate or foreign commerce or receive from shipment in such commerce any dangerous caustic or corrosive substance for sale or exchange, or sell or offer for sale any such substance in any Territory or possession or in the District of Columbia, in a misbranded parcel, package, or container suitable for household use; except that the preceding provisions of this section shall not apply—

(a) To any regularly established common carrier shipping or delivering for shipment, or receiving from shipment, any such substance in the ordinary course of its business as a common carrier; nor

(b) To any person in respect of any such substance shipped or delivered for shipment, or received from shipment, for export to any foreign country, in a parcel, package, or container branded in accordance with the specifications of a foreign purchaser and in accordance with the laws of the foreign country.

(c) To any dealer when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchases such articles, to the effect that the article is not misbranded within the meaning of this chapter. This guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of this chapter. (Mar. 4, 1927, ch. 489, sec. 3, 44 Stat. 1407.)

404. Libel for condemnation proceedings.—(a) Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use shall be liable to be proceeded against in the district court of the United States for any judicial district in which the substance is found and to be seized for confiscation by a process of libel for condemnation, if such substance is being—

(1) Shipped in interstate or foreign commerce, or

(2) Held for sale or exchange after having been so shipped, or

(3) Held for sale or exchange in any Territory or possession or in the District of Columbia.

(b) If such substance is condemned as misbranded by the court it shall be disposed of in the discretion of the court—

(1) By destruction.

(2) By sale. The proceeds of the sale, less legal costs and charges, shall be paid into the Treasury as miscellaneous receipts. Such substance shall not be sold in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction, and the court may require the purchaser at any such sale to label such substance in compliance with law before the delivery thereof.

(3) By delivery to the owner thereof upon the payment of legal costs and charges and execution and delivery of a good and sufficient bond to the effect that such substance will not be sold or otherwise disposed of in any jurisdiction contrary to the provisions of this chapter or the laws of such jurisdiction.

(c) Proceedings in such libel cases shall conform, as nearly as may be, to suits in rem in admiralty, except that either party may demand trial by jury on any issue of fact if the value in controversy exceeds $20. In case of a jury trial the verdict of the jury shall have the same effect as a finding of the court upon the facts. All such proceedings shall be at the suit and in the name of the United States. (Mar. 4, 1927, ch. 489, sec. 4, 44 Stat. 1408.)

405. Exclusion of misbranded imports.—(a) Whenever in the case of any dangerous caustic or corrosive substance being offered for importation the Secretary of Agriculture has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 403 of this title, he shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

(b) If, after proceeding in accordance with subdivision (a), the Secretary of Agriculture is satisfied that such substance being offered for importation was shipped in interstate or foreign commerce in violation of any provision of this chapter, he shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within three months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute a lien against any future importations made by such owner or consignee. (Mar. 4, 1927, ch. 489, sec. 5, 44 Stat. 1408.)

406. Removal of labels.—No person shall alter, mutilate, destroy, obliterate, or remove any label or sticker required by this chapter to be placed on any dangerous caustic or corrosive substance, if such substance is being—

(a) Shipped in interstate or foreign commerce; or

(b) Held for sale or exchange after having been so shipped; or

(c) Held for sale or exchange in any Territory or possession or by the District of Columbia. (Mar. 4, 1927, ch. 489, sec. 6, 44 Stat. 1409.)

407. Penalties.—Any person violating any provision of section 403 or 406 of this title shall upon conviction thereof be punished by a fine of not more than $200 or imprisonment for not more than ninety days, or by both. (Mar. 4, 1927, ch. 489, sec. 7, 44 Stat. 1409.)

408. Institution of libel for condemnation and criminal proceedings.—It shall be the duty of each United States district attorney to whom the Secretary of Agriculture shall report any violation of section 403 or 406 of this title or to whom any health, medical, or drug officer or agent of any State, Territory, or possession, or of the District of Columbia presents satisfactory evidence of any such violation, to cause libel for condemnation and criminal proceedings under sections 404 and 407 of this title to be commenced and prosecuted in the proper courts of the United States, without delay, for the enforcement of the condemnation and penalties provided in such sections. (Mar. 4, 1927, ch. 489, sec. 8, 44 Stat. 1409.)

409. Enforcement of chapter.—(a) Except as otherwise specifically provided in this chapter, the Secretary of Agriculture shall enforce its provisions.

(b) For enforcing the provisions of sections 404, 405, and 407 of this title, the Secretary of Agriculture may cause investigations, inspections, analyses, and tests to be made and samples to be collected, of any dangerous caustic or corrosive substance. The Department of Agriculture shall pay to the person entitled, upon his request, the reasonable market value of any such sample taken. If it appears from the inspection, analysis, or test of any dangerous caustic or corrosive substance that such substance is in a misbranded package, parcel, or container suitable for household use, the Secretary of Agriculture shall cause notice thereof to be given to any person who may be liable for any violation of section 403 or 406 of this title in respect of such substance. Any person so notified shall be given an opportunity to be heard under regulations prescribed by the Secretary of Agriculture. If it appears that such person has violated the provisions of section 403 or 406 of this title the Secretary of Agriculture shall at once certify the facts to the proper United

States district attorney, with a copy of the results of the inspection, analysis, or test duly authenticated under oath by the person making such inspection, analysis, or test.

(c) For the enforcement of his functions under this chapter the Secretary of Agriculture is authorized—

(1) To prescribe and promulgate such regulations as may be necessary.

(2) To cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia, or with any department, agency, or political subdivision thereof, or with any person.

(3) Subject to the civil service laws to appoint and, in accordance with chapter 13 of Title 5, to fix the salaries of such officers and employees as may be required for the execution of the functions of the Secretary of Agriculture under this chapter and as may be provided for by the Congress from time to time.

(4) To make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of reference, and periodicals) as may be required for the execution of the functions vested in the Secretary of Agriculture by this chapter and as may be provided for by the Congress from time to time.

(5) To give notice, by publication in such manner as the Secretary of Agriculture may by regulation prescribe, of the judgment of the court in any case under the provisions of this chapter. (Mar. 4, 1927, ch. 489, sec. 9, 44 Stat. 1409.)

410. Separability clause.—If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby. (Mar. 4, 1927, ch. 489, sec. 10, 44 Stat. 1410.)

411. Application to existing law.—The provisions of this chapter shall be held to be in addition to and not in substitution for the provisions of the following acts:

(a) The Food and Drugs Act, approved June 30, 1906, as amended [sections 1 to 15 of title 21].

(b) The Insecticide Act of 1910, as amended [chapter 6 of title 7].

(c) The Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906, as amended. (Mar. 4, 1927, ch. 489, sec. 12, 44 Stat. 1410.)

UNITED STATES CODE, TITLE 17

COPYRIGHTS

Sections 1 to 63. Copyrights.—

NOTE.—See Canal Zone Code, title 3, section 391, rendering the copyright laws of the United States of the same force and effect in the Canal Zone as in the United States, and conferring jurisdiction in actions arising under such laws upon the district court.

UNITED STATES CODE, TITLE 18

CRIMINAL CODE AND CRIMINAL PROCEDURE

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CHAPTER 1.—OFFENSES AGAINST EXISTENCE OF GOVERNMENT

NOTE.—Sections 5 to 8 of this title are shown by reason of their express application to places "subject to the jurisdiction" of the United States.

Section 5. Criminal correspondence with foreign governments; redress of private injuries excepted.—Every citizen of the United States, whether actually resident or abiding within the same, or in any place subject to the jurisdiction thereof, or in any foreign country, who, without the permission or authority of the Government, directly or indirectly, commences or carries on any verbal or written correspondence or intercourse with any foreign government or any officer or agent thereof, with an intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the Government of the United States; and every person, being a citizen of or resident within the United States or in any place subject to the jurisdiction thereof, and not duly authorized, who counsels, advises, or assists in any such correspondence with such intent, shall be fined not more than $5,000 and imprisoned not more than three years; but nothing in this section shall be construed to abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects. (R. S. sec. 5335; Mar. 4, 1909, ch. 321, sec. 5, 35 Stat. 1088; Apr. 22, 1932, ch. 126, 47 Stat. 132.)

6. Seditious conspiracy.—If two or more persons in any State or Territory, or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be fined not more than $5,000, or imprisoned not more than six years, or both. (R.S. sec. 5336; Mar. 4, 1909, ch. 321, sec. 6, 35 Stat. 1089.)

7. Recruiting for service against United States.—Whoever recruits soldiers or sailors within the United States, or in any place subject to the jurisdiction thereof, to engage in armed hostility against the same, or opens within the United States, or in any place subject to the jurisdiction thereof, a recruiting station for the enlistment of such soldiers or sailors to serve in any manner in armed hostility against the United States, shall be fined not more than $1,000 and imprisoned not more than five years. (R.S. sec. 5337; Mar. 4, 1909, ch. 321, sec. 7, 35 Stat. 1089.)

8. **Enlisting to serve against United States.**—Every person enlisted or engaged within the United States or in any place subject to the jurisdiction thereof, with intent to serve in armed hostility against the United States, shall be fined $100 and imprisoned not more than three years. (R.S. sec. 5338; Mar. 4, 1909, ch. 321, sec. 8, 35 Stat. 1089.)

CHAPTER 2.—OFFENSES AGAINST NEUTRALITY

Section 21. Accepting commission to serve against friendly power.—Every citizen of the United States who, within the territory or jurisdiction thereof, accepts and exercises a commission to serve a foreign prince, state, colony, district, or people, in war, by land or by sea, against any prince, state, colony, district, or people, with whom the United States are at peace, shall be fined not more than $2,000 and imprisoned not more than three years. (R.S. sec. 5281; Mar. 4, 1909, ch. 321, sec. 9, 35 Stat. 1089.)

NOTE.—Sections 21 to 24 of this title are shown by reason of their express application to persons within the territory "or jurisdiction" of the United States.

22. **Enlisting in foreign service; exceptions.**—Whoever, within the territory or jurisdiction of the United States, enlists or enters himself, or hires or retains another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people as a soldier or as a marine or seaman on board of any vessel of war, letter of marque, or privateer shall be fined not more than $1,000 and imprisoned not more than three years: *Provided*, That this section shall not apply to citizens or subjects of any country engaged in war with a country with which the United States is at war, unless such citizen or subject of such foreign country shall hire or solicit a citizen of the United States to enlist or go beyond the jurisdiction of the United States with intent to enlist or enter the service of a foreign country. Enlistments under this proviso shall be under regulations prescribed by the Secretary of War. (R. S. sec. 5282; Mar. 4, 1909, c. 321, sec. 10, 35 Stat. 1089; May 7, 1917, c. 11, 40 Stat. 39.)

23. **Arming vessels against friendly powers; forfeiture of vessel.**—Whoever, within the territory or jurisdiction of the United States, fits out and arms, or attempts to fit out and arm, or procures to be fitted out and armed, or knowingly is concerned in the furnishing, fitting out, or arming of any vessel, with intent that such vessel shall be employed in the service of any foreign prince, or state, or of any colony, district, or people, to cruise, or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people, with whom the United

States are at peace, or whoever issues or delivers a commission within the territory or jurisdiction of the United States for any vessel, to the intent that she may be so employed, shall be fined not more than $10,000 and imprisoned not more than three years. And every such vessel, her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores which may have been procured for the building and equipment thereof, shall be forfeited; one half to the use of the informer and the other half to the use of the United States. (R.S. sec. 5283; Mar. 4, 1909, ch. 321, sec. 11, 35 Stat. 1090.)

24. Augmenting force of foreign armed vessels.—Whoever, within the territory or jurisdiction of the United States, increases or augments, or procures to be increased or augmented, or knowingly is concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger caliber, or by adding thereto any equipment solely applicable to war, shall be fined not more than $1,000 and imprisoned not more than one year. (R.S. sec. 5285; Mar. 4, 1909, ch. 321, sec. 12, 35 Stat. 1090.)

25. Organizing military expedition against friendly power.—Whoever, within the territory or jurisdiction of the United States or of any of its possessions, knowingly begins or sets on foot or provides or prepares a means for or furnishes the money for, or who takes part in, any military or naval expedition or enterprise to be carried on from thence against the territory or dominion of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace, shall be fined not more than $3,000 or imprisoned not more than three years, or both. (R.S. sec. 5286; Mar. 4, 1909, ch. 321, sec. 13, 35 Stat. 1090; June 15, 1917, ch. 30, title V, sec. 8, 40 Stat. 223.)

CROSS-REFERENCES

"United States" as used in sections 25, 27, and 31 to 38 of this title, defined to include Canal Zone, jurisdiction of district court over offenses, see section 39 of this title.

Duties of district attorney of Canal Zone in respect to offenses under sections 25, 27, and 31 to 38 of this title, see section 574 of this title.

27. Compelling foreign vessels to depart.—It shall be lawful for the President to employ such part of the land or naval forces of the United States, or of the militia thereof, as he may deem necessary to compel any foreign vessel to depart from the United States or any of its possessions in all cases in which, by the law of nations or the treaties of the United States, it ought not to remain, and to detain or prevent any foreign vessel from so departing in all cases in which, by the law of nations or the treaties of the United States, it is not entitled to depart. (R.S. sec. 5288; Mar. 4, 1909, ch. 321, sec. 15, 35 Stat. 1091; June 15, 1917, ch. 30, title V, sec. 10, 40 Stat. 223.)

31. Enforcement of neutrality; withholding clearance papers from vessels.—During a war in which the United States is a neutral nation, the President, or any person thereunto authorized by him, may withhold clearance from or to any vessel, domestic or foreign, which is required by law to secure clearance before departing from port or from the jurisdiction of the United States, or, by service of formal notice upon the owner, master, or person in command or having charge of any domestic vessel not required by law to secure clearances before so departing, to forbid its departure from port or from the jurisdiction of the United States, whenever there is reasonable cause to believe that any such vessel, domestic or foreign, whether requiring clearance or not, is about to carry fuel, arms, ammunition, men, supplies, dispatches, or information to any warship, tender, or supply ship of a foreign belligerent nation in violation of the laws, treaties, or obligations of the United States under the law of nations; and it shall thereupon be unlawful for such vessel to depart. (June 15, 1917, ch. 30, title V, sec. 1, 40 Stat. 221.)

32. Same; detention of armed vessels.—During a war in which the United States is a neutral nation, the President, or any person thereunto authorized by him, may detain any armed vessel owned wholly or in part by American citizens, or any vessel, domestic or foreign (other than one which has entered the ports of the United States as a public vessel), which is manifestly built for warlike purposes or has been converted or adapted from a private vessel to one suitable for warlike use, until the owner or master, or person having charge of such vessel, shall furnish proof satisfactory to the President, or to the person duly authorized by him, that the vessel will not be employed by the said owners, or master, or person having charge thereof, to cruise against or commit or attempt to commit hostilities upon the subjects, citizens, or property of any foreign prince or state, or of any colony, district or people with which the United States is at peace, and that the said vessel will not be sold or delivered to any belligerent nation, or to an agent, officer, or citizen of such nation, by them or any of them, within the jurisdiction of the United States, or, having left that jurisdiction, upon the high seas. (June 15, 1917, ch. 30, title V, sec. 2, 40 Stat. 221.)

33. Same; sending out armed vessels with intent to deliver to belligerent nation.—During a war in which the United States is a neutral nation, it shall be unlawful to send out of the jurisdiction of the United States any vessel built, armed, or equipped as a vessel of war, or converted from a private vessel into a vessel of war, with any intent or under any agreement or contract, written or oral, that such vessel shall be delivered to a belligerent nation, or to an agent, officer, or citizen of such nation, or with reasonable cause to believe that the said vessel shall or will be employed in the service of any such belligerent nation after its departure from the jurisdiction of the United States. (June 15, 1917, ch. 30, title V, sec. 3, 40 Stat. 222.)

34. Same; statement from master that cargo will not be delivered to other vessels.—During a war in which the United States is a neutral nation, in addition to the facts required by sections 91, 92, and 94 of Title 46 to be set out in the masters' and shippers' manifests before clearance will be issued to vessels bound to foreign ports, each of which sections is hereby declared to be and is continued in full force and effect, every master or person having charge or command of any vessel, domestic or foreign, whether requiring clearance or not, before departure of such vessel from port shall deliver to the collector of customs for the district wherein such vessel is then located a statement duly verified by oath, that the cargo or any part of the cargo is or is not to be delivered to other vessels in port or to be transshipped on the high seas and, if it is to be so delivered or transshipped, stating the kind and quantities and the value of the total quantity of each kind of article so to be delivered or transshipped, and the name of the person, corporation, vessel, or government, to whom the delivery or transshipment is to be made; and the owners, shippers, or consignors of the cargo of such vessel shall in the same manner and under the same conditions deliver to the collector like statements under oath as to the cargo or the parts thereof laden or shipped by them, respectively. (June 15, 1917, ch. 30, title V, sec. 4, 40 Stat. 222.)

35. **Same; forbidding departure of vessels.**—Whenever it appears that the vessel is not entitled to clearance or whenever there is reasonable cause to believe that the additional statements under oath required in section 34 of this title are false, the collector of customs for the district in which the vessel is located may, subject to review by the Secretary of Commerce, refuse clearance to any vessel, domestic or foreign, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, forbid the departure of the vessel from the port or from the jurisdiction of the United States; and it shall thereupon be unlawful for the vessel to depart. (June 15, 1917, ch. 30, title V, sec. 5, 40 Stat. 222.)

36. **Same; unlawful taking of vessel out of port.**—Whoever, in violation of any of the provisions of sections 25, 27, and 31 to 38 of this title, shall take, or attempt or conspire to take, or authorize the taking of any such vessel, out of port or from the jurisdiction of the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both; and, in addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States. (June 15, 1917, ch. 30, title V, sec. 6, 40 Stat. 222.)

37. **Same; internment of persons belonging to armed land or naval forces of belligerent nation; arrest; punishment for aiding escape.**—Whoever, being a person belonging to the armed land or naval forces of a belligerent nation or belligerent faction of any nation and being interned in the United States, in accordance with the law of nations, shall leave or attempt to leave said jurisdiction, or shall leave or attempt to leave the limits of internment in which freedom of movement has been allowed, without permission from the proper official of the United States in charge, or shall willfully overstay a leave of absence granted by such official, shall be subject to arrest by any marshal or deputy marshal of the United States, or

by the military or naval authorities thereof, and shall be returned to the place of internment and there confined and safely kept for such period of time as the official of the United States in charge shall direct; and whoever, within the jurisdiction of the United States and subject thereto, shall aid or entice any interned person to escape or attempt to escape from the jurisdiction of the United States, or from the limits of internment prescribed, shall be fined not more than $1,000 or imprisoned not more than one year, or both. (June 15, 1917, ch. 30, title V, sec. 7, 40 Stat. 223.)

38. Enforcement of sections 25, 27, and 31 to 37 of this title.— The President may employ such part of the land or naval forces of the United States as he may deem necessary to carry out the purposes of sections 25, 27, and 31 to 37 of this title. (June 15, 1917, ch. 30, title V, sec. 9, 40 Stat. 223.)

39. Same; United States defined; jurisdiction of offenses; prior offenses; partial invalidity of provisions.—The term "United States", as used in sections 25, 27, and 31 to 38 of this title, includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The several courts of first instance in the Philippine Islands and the district court of the Canal Zone shall have jurisdiction of offenses under said sections 25, 27, and 31 to 38 committed within their respective districts, and concurrent jurisdiction with the district courts of the United States of offenses thereunder committed upon the high seas, and of conspiracies to commit such offenses, as defined by section 88 of this title, and the provisions of said section 88, for the purposes of sections 25, 27, and 31 to 38 of this title, are extended to the Philippine Islands, and to the Canal Zone. Offenses committed and penalties, forfeitures, or liabilities incurred prior to the taking effect hereof under any law embraced in or changed, modified, or repealed by sections 25, 27, and 31 to 38 may be prosecuted and punished, and suits and proceedings for causes arising or acts done or committed prior to the taking effect hereof may be commenced and prosecuted, in the same manner and with the same effect as if said sections 25, 27, and 31 to 38 had not been passed. If any clause, sentence, paragraph, or part of sections 25, 27, and 31 to 38 shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (June 15, 1917, ch. 30, title XIII, secs. 1 to 4, 40 Stat. 231.)

CHAPTER 4.—OFFENSES AGAINST OPERATIONS OF GOVERNMENT

Section 71. Making, forging, counterfeiting, or altering letters patent.—

NOTE.—See Canal Zone Code, title 3, section 391, rendering the patent laws of the United States of the same force and effect in the Canal Zone as in the United States, and conferring jurisdiction in actions arising under such laws upon the district court.

88. Conspiring to commit offense against United States.—If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000, or imprisoned not more than two years, or both. (R.S. sec. 5440; May 17, 1879, ch. 8, 21 Stat. 4; Mar. 4, 1909, ch. 321, sec. 37, 35 Stat. 1096.)

NOTE.—This section is extended to the Canal Zone for certain purposes by sections 39 and 574 of this title; see also title 50, sections 34 and 39.

96. Injuries to fortifications or harbor defenses; jurisdiction of offenses committed within Canal Zone or defensive sea areas.—Whoever shall willfully trespass upon, injure, or destroy any of the works or property or material of any submarine mine or torpedo or fortification or harbor-defense system owned or constructed or in process of construction by the United States, or shall willfully interfere with the operation or use of any such submarine mine, torpedo, fortification, or harbor-defense system, or shall knowingly, willfully, or wantonly violate any duly authorized and promulgated order or regulation of the President governing persons or vessels within the limits of defensive sea areas, which defensive sea areas are hereby authorized to be established by order of the President from time to time as may be necessary in his discretion for purposes of national defense, shall be punished on conviction thereof in a district or circuit court of appeals of the United States for the district or circuit in which the offense is committed, or into which the offender is first brought, by a fine of not more than $5,000, or by imprisonment for a term not exceeding five years, or by both, in the discretion of the court. Offenses hereunder committed within the Canal Zone or within any defensive sea areas which the President is authorized to establish by this section, shall be cognizable in the District Court of the Canal Zone, and jurisdiction is hereby conferred upon said court to hear and determine all such cases arising under this section and to impose the penalties herein provided for the violation of any of its provisions. (July 7, 1898, ch. 576, sec. 1, 30 Stat. 717; Mar. 4, 1909, ch. 321, sec. 44, 35 Stat. 1097; Mar. 4, 1917, ch. 180, 39 Stat. 1194; May 22, 1917, ch. 20, sec. 19, 40 Stat. 89.)

98. Possession or control of property or papers in aid of foreign government designed or intended for violating penal statutes, treaty rights or obligations of United States; or rights under law of nations.—Whoever, in aid of any foreign government, shall knowingly and willfully have possession of or control over any property or papers designed or intended for use or which is used as the means of violating any penal statute, or any of the rights or obligations of the United States under any treaty or the law of nations, shall be fined not more than $1,000 or imprisoned not more than two years, or both. The term "United States", as used in this section, includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The words "foreign government", as used in this section, shall be deemed to include any government, faction, or body of insurgents within a country with which the United States is at peace, which government, faction, or body of insurgents may or may not have been recognized by the United States as a government. (June 15, 1917, ch. 30, title VIII, sec. 4, 40 Stat. 226; June 15, 1917, ch. 30, title XI, sec. 22, 40 Stat. 230, June 15, 1917, ch. 30, title XIII, sec. 1, 40 Stat. 231.

CROSS-REFERENCE

Jurisdiction of district court in Canal Zone over offenses under this section, see section 574 of this title.

130. Counterfeiting Government seal; fraudulently or wrongfully affixing seal of executive departments to certificate or instrument or wrongfully using such certificate or instrument.—Whoever shall fraudulently or wrongfully affix or impress the seal of any executive department, or of any bureau, commission, or office of the United States, to or upon any certificate, instrument, commission, document, or paper of any description; or whoever, with knowledge of its fraudulent character, shall with wrongful or fraudulent intent use, buy, procure, sell, or transfer to another any such certificate, instrument, commission, document, or paper, to which or upon which said seal has been so fraudulently affixed or impressed, shall be fined not more than $5,000 or imprisoned not more than five years, or both. (June 15, 1917, ch. 30, title X, sec. 1, 40 Stat. 227.)

CROSS-REFERENCE

Jurisdiction of district court in Canal Zone over offenses under sections 130 to 132 of this title, see section 574 of this title.

131. Falsely making or forging seal of executive department.—Whoever shall falsely make, forge, counterfeit, mutilate, or alter, or cause or procure to be made, forged, counterfeited, mutilated, or altered, or shall willingly assist in falsely making, forging, counterfeiting, mutilating, or altering, the seal of any executive department, or any bureau, commission, or office of the United States, or whoever shall knowingly use, affix, or impress any such fraudulently made, forged, counterfeited, mutilated, or altered seal to or upon any certificate, instrument, commission, document, or paper, of any description, or whoever with wrongful or fraudulent intent shall have possession of any such falsely made, forged, counterfeited, mutilated, or altered seal, knowing same to have been so falsely made, forged, counterfeited, mutilated, or altered, shall be fined not more than $5 000 or imprisoned not more than ten years, or both. (June 15, 1917, ch. 30, title X, sec. 2, 40 Stat. 228.)

132. Falsely making or forging naval, military, or official pass.—Whoever shall falsely make, forge, counterfeit, alter, or tamper with any naval, military, or official pass or permit, issued by or under the authority of the United States, or with wrongful or fraudulent intent shall use or have in his possession any such pass or permit, or shall personate or falsely represent himself to be or not to be a person to whom such pass or permit has been duly issued, or shall willfully allow any other person to have or use any such pass or permit, issued for his use alone, shall be fined not more than $2,000 or imprisoned not more than five years, or both. (June 15, 1917, ch. 30, title X, sec. 3, 40 Stat. 228.)

133. United States defined.—The term "United States", as used in sections 130 to 132 of this title, includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. (June 15, 1917, ch. 30, title XIII, sec. 1, 40 Stat. 231.)

CHAPTER 7.—OFFENSES AGAINST CURRENCY, COINAGE, ETC.

NOTE.—The sections hereinafter shown were selected on the basis of the express application of certain of their provisions to places "subject to the jurisdiction" of the United States.

Section 261. "Obligation or other security of the United States" defined.—The words "obligation or other security of the United States" shall be held to mean all bonds, certificates of indebtedness, national bank currency, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, which have been or may be issued under any Act of Congress. (R.S. sec. 5413; Feb. 18, 1875, ch. 80, sec. 1, 18 Stat. 320; Feb. 27, 1877, ch. 69, 19 Stat. 253; Feb. 28, 1878, ch. 20, sec. 3, 20 Stat. 26; Mar. 4, 1909, ch. 321, sec. 147, 35 Stat. 1115.)

264. Using plates to print notes without authority; distinctive paper.—Whoever, having control, custody, or possession of any plate, stone, or other thing, or any part thereof, from which has been printed, or which may be prepared by direction of the Secretary of the Treasury for the purpose of printing, any obligation or other security of the United States, shall use such plate, stone, or other thing, or any part thereof, or knowingly suffer the same to be used for the purpose of printing any such or similar obligation or other security, or any part thereof, except as may be printed for the use of the United States by order of the proper officer thereof; or whoever by any way, art, or means shall make or execute, or cause or procure to be made or executed, or shall assist in making or executing any plate, stone, or other thing in the likeness of any plate designated for the printing of such obligation or other security; or whoever shall sell any such plate, stone, or other thing, or bring into the United States or any place subject to the jurisdiction thereof, from any foreign place, any such plate, stone, or other thing, except under the direction of the Secretary of the Treasury or other proper officer, or with any other intent, in either case, than that such plate, stone, or other thing be used for the printing of the obligations or other securities of the United States; or whoever shall have in his control, custody, or possession any plate, stone, or other thing in any manner made after or in the similitude of any plate, stone, or other thing, from which any such obligation or other security has been printed, with intent to use such plate, stone, or other thing, or to suffer the same to be used in forging or counterfeiting any such obligation or other security, or any part thereof; or whoever shall have in his possession or custody, except under authority from the Secretary of the Treasury or other proper officer, any obligation or other security made or executed, in whole or in part, after the similitude of any obligation or other security issued under the authority of the United States, with intent to sell or otherwise use the same; or whoever shall print, photograph, or in any other manner make or execute, or cause to be printed, photographed, made, or executed, or shall aid in printing, photographing, making, or executing any engraving, photograph, print, or impression in the likeness of any such obligation or other security, or any part thereof, or shall sell any such engraving, photograph, print, or impression, except to the United States, or shall bring into the United States or any place subject to the jurisdiction thereof, from any foreign place, any such engraving, photograph, print, or impression, except by direction of some proper officer of the United States; or whoever shall have or retain in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury or some other proper officer of the United States, shall be fined not more than $5,000, or imprisoned not more than fifteen years, or both. (R.S. sec. 5430, Mar. 4, 1909, ch. 321, sec. 150, 35 Stat. 1116.)

265. Uttering forged obligations.—Whoever, with intent to defraud, shall pass, utter, publish, or sell. or attempt to pass, utter, publish, or sell, or shall bring into the United States or any place subject to the jurisdiction thereof, with intent to pass, publish, utter. or sell, or shall keep in possession or conceal with like intent, any falsely made, forged, counterfeited, or altered obligation or other security of the United States, shall be fined not more than $5,000 and imprisoned not more than fifteen years. (R.S. sec. 5431; Mar. 4, 1909, ch. 321, sec. 151, 35 Stat. 1116.)

270. Counterfeiting foreign securities.—Whoever, within the United States or any place subject to the jurisdiction thereof, with intent to defraud, shall falsely make, alter, forge, or counterfeit any bond, certificate, obligation, or other security in imitation of, or purporting to be an imitation of, any bond, certificate, obligation, or other security of any foreign government, issued or put forth under the authority of such foreign government, or any treasury note, bill, or promise to pay issued by such foreign government, and intended to circulate as money, either by law, order, or decree of such foreign government; or whoever shall cause or procure to be so falsely made, altered, forged, or counterfeited, or shall knowingly aid or assist in making, altering, forging, or counterfeiting, any such bond, certificate, obligation, or other security, or any such treasury note, bill, or promise to pay, intended as aforesaid to circulate as money, shall be fined not more than $5,000 and imprisoned not more than five years. (May 16, 1884, ch. 52, sec. 1, 23 Stat. 22; Mar. 4, 1909, ch. 321, sec. 156, 35 Stat. 1117.)

271. Uttering counterfeit foreign securities.—Whoever, within the United States or any place subject to the jurisdiction therof, knowingly and with intent to defraud, shall utter, pass, or put off, in payment or negotiation, any false, forged, or counterfeited bond, certificate, obligation, security, treasury note, bill, or promise to pay, mentioned in section 270 of this title, whether the same was made, altered, forged, or counterfeited within the United States or not, shall be fined not more than $3,000 and imprisoned not more than three years. (May 16, 1884, ch. 52, sec. 2, 23 Stat. 23; Mar. 4, 1909, ch. 321, sec. 157, 35 Stat. 1118.)

272. Counterfeiting notes of foreign banks.—Whoever, within the United States or any place subject to the jurisdiction thereof, with intent to defraud, shall falsely make, alter, forge, or counterfeit, or cause or procure to be so falsely made, altered, forged, or counterfeited, or shall knowingly aid and assist in the false making, altering, forging, or counterfeiting of any bank note or bill issued by a bank or corporation of any foreign country, and intended by the law or usage of such foreign country to circulate as money, such bank or corporation being authorized by the laws of such country, shall be fined not more than $2,000 and imprisoned not more than two years. (May 16, 1884, ch. 52, sec. 3, 23 Stat. 23; Mar. 4, 1909, ch. 321, sec. 158, 35 Stat. 1118.)

273. Uttering counterfeit notes of foreign banks.—Whoever, within the United States or any place subject to the jurisdiction thereof, shall utter, pass, put off, or tender in payment, with intent to defraud, any such false, forged, altered, or counterfeited bank note or bill, mentioned in section 272 of this title, knowing the same to be so false, forged, altered, and counterfeited, whether the same was made, forged, altered, or counterfeited within the United States or not, shall be fined not more than $1,000 and imprisoned not more than one year. (May 16, 1884, ch. 52, sec. 4, 23 Stat. 23; Mar. 4, 1909, ch. 321, sec. 159, 35 Stat. 1118.)

274. Possession of counterfeit foreign securities.—Whoever, within the United States or any place subject to the jurisdiction thereof, shall have in his possession any false, forged, or counterfeit bond, certificate, obligation, security, treasury note, bill, promise to pay, bank note, or bill issued by a bank or corporation of any foreign country, with intent to utter, pass, or put off the same, or to deliver the same to any other person with intent that the same may thereafter be uttered, passed, or put off as true, or shall knowingly deliver the same to any other person with such intent, shall be fined not more than $1,000 and imprisoned not more than one year. (May 16, 1884, ch. 52, sec. 5, 23 Stat. 23; Mar. 4, 1909, ch. 321, sec. 160, 35 Stat. 1118.)

275. Possession of counterfeit plates of foreign securities.—Whoever, within the United States or any place subject to the jurisdiction thereof, except by lawful authority, shall have control, custody, or possession of any plate, stone, or other thing, or any part thereof, from which has been printed or may be printed any counterfeit note, bond, obligation, or other security, in whole or in part, of any foreign government, bank, or corporation, or shall use such plate, stone, or other thing, or knowingly permit or suffer the same to be used in counterfeiting such foreign obligations, or any part thereof; or whoever shall make or engrave, or cause or procure to be made or engraved, or shall assist in making or engraving, any plate, stone, or other thing in the likeness or similitude of any plate, stone, or other thing designated for the printing of the genuine issues of the obligations of any foreign government, bank, or corporation; or whoever shall print, photograph, or in any other manner make, execute, or sell, or cause to be printed, photographed, made, executed, or sold, or shall aid in printing, photographing, making, executing, or selling, any engraving, photograph, print, or impression in the likeness of any genuine note, bond, obligation, or other security, or any part thereof, of any foreign government, bank, or corporation; or whoever shall bring into the United States or any place subject to the jurisdiction thereof any counterfeit plate, stone, or other thing, or engraving, photograph, print, or other impressions of the notes, bonds, obligations, or other securities of any foreign government, bank, or corporation, shall be fined not more than $5,000, or imprisoned not more than five years, or both. (May 16, 1884, ch. 52, sec. 6, 23 Stat. 23; Mar. 4, 1909, ch. 321, sec. 161, 35 Stat. 1118.)

277. Counterfeiting gold or silver coins or bars.—Whoever shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or shall willingly aid or assist in falsely making, forging, or counterfeiting any coin or bars in resemblance or similitude of the gold or silver coins or bars which have been, or hereafter may be, coined or stamped at the mints and assay offices of the United States, or in resemblance or similitude of any foreign gold or silver coin which by law is, or hereafter may be, current in the United States, or are in actual use and circulation as money within the United States; or whoever shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or bring into the United States or any place subject to the jurisdiction thereof, from any foreign place, knowing the same to be false, forged, or counterfeit, with intent to defraud any body politic or corporate, or any person or persons whomsoever, or shall have in his possession any such false, forged, or counterfeited coin or bars, knowing the same to be false, forged, or counterfeited, with intent to defraud any body politic or corporate, or any person or persons whomsoever, shall be fined not more than $5,000 and imprisoned not more than ten years. (R.S. sec. 5457; Jan. 16, 1877, ch. 24, 19 Stat. 223; Mar. 4, 1909, ch. 321, sec. 163, 35 Stat. 1119.)

278. Counterfeiting minor coins.—Whoever shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or shall willingly aid or assist in falsely making, forging, or counterfeiting any coin in the resemblance or similitude of any of the minor coins which have been, or hereafter may be, coined at the mints of the United States; or whoever shall pass, utter, publish, or sell, or bring into the United States or any place subject to the jurisdiction thereof, from any foreign place, or have in his possession any such false, forged, or counterfeited coin, with intent to defraud any person whomsoever, shall be fined not more than $1,000 and imprisoned not more than three years. (R.S. sec. 5458; Mar. 4, 1909, ch. 321, sec. 164, 35 Stat. 1119.)

279. **Falsifying, mutilating, or lightening coins.**—Whoever, fraudulently, by any art, way, or means, shall deface, mutilate, impair, diminish, falsify, scale, or lighten, or cause or procure to be fraudulently defaced, mutilated, impaired, diminished, falsified, scaled, or lightened, or willingly aid or assist in fraudulently defacing, mutilating, imparing, diminishing, falsifying, scaling, or lightening, the gold or silver coins which have been, or which may hereafter be, coined at the mints of the United States, or any foreign gold or silver coins which are by law made current or are in actual use or circulation as money within the United States or in any place subject to the jurisdiction thereof; or whoever shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or bring into the United States or any place subject to the jurisdiction thereof, from any foreign place, knowing the same to be defaced, mutilated, impaired, diminished, falsified, scaled, or lightened, with intent to defraud any person whomsoever, or shall have in his possession any such defaced, mutilated, impaired, diminished, falsified, scaled, or lightened coin, knowing the same to be defaced, mutilated, impaired, diminished, falsified, scaled, or lightened, with intent to defraud any person whomsoever, shall be fined not more than $2,000 and imprisoned not more than five years. (R.S. sec. 5459; Mar. 3, 1897, ch. 377, 29 Stat. 625; Mar. 4, 1909, ch. 321, sec. 165, 35 Stat. 1119.)

284. **Counterfeiting dies for foreign coins.**—Whoever, within the United States or any place subject to the jurisdiction thereof, without lawful authority, shall make, or cause or procure to be made, or shall willingly aid or assist in making, any die, hub, or mold, or any part thereof, either of steel or of plaster, or of any other substance whatsoever, in the likeness or similitude, as to the design or the inscription thereon, of any die, hub, or mold designated for the coining of the genuine coin of any foreign government; or whoever, without lawful authority, shall have in his possession any such die, hub, or mold, or any part thereof, or shall conceal, or knowingly suffer the same to be used for the counterfeiting of any foreign coin, shall be fined not more than $2,000, or imprisoned not more than five years, or both. (Feb. 10, 1891, ch. 127, sec. 2, 26 Stat. 742; Mar. 4, 1909, ch. 321, sec. 170, 35 Stat. 1120.)

285. **Making, importing, or possessing tokens similar to United States or foreign coins.**—Whoever within the United States or any place subject to the jurisdiction thereof shall make, or cause or procure to be made, or shall bring therein from any foreign country, or shall have in possession with intent to sell, give away, or in any other manner use the same, any business or professional card, notice, placard, token, device, print, or impression, or any other thing whatsoever, in the likeness or similitude as to design, color, or the inscription thereon of any of the coins of the United States or of any foreign country that have been or may be issued as money, either under the authority of the United States or under the authority of any foreign government, shall be fined not more than

$100. But nothing in this section shall be construed to forbid or prevent the printing and publishing of illustrations of coins and medals or the making of the necessary plates for the same to be used in illustrating numismatic and historical books and journals and school arithmetics and the circulars of legitimate publishers and dealers in the same. (Feb. 10, 1891, ch. 127, sec. 3, 26 Stat. 742; Mar. 3, 1903, ch. 1015, 32 Stat. 1223; Mar. 4, 1909, ch. 321, sec. 171, 35 Stat. 1121; Feb. 15, 1912, ch. 38, 37 Stat. 64.)

287. Search warrant for suspected counterfeits; forfeiture.—The several judges of courts established under the laws of the United States and United States commissioners may, upon proper oath or affirmation, within their respective jurisdiction, issue a search warrant authorizing any marshal of the United States, or any other person specially mentioned in such warrant, to enter any house, store, building, boat, or other place named in such warrant, in which there shall appear probable cause for believing that the manufacture of counterfeit money, or the concealment of counterfeit money, or the manufacture or concealment of counterfeit obligations or coins of the United States or of any foreign government, or the manufacture or concealment of dies, hubs, molds, plates, or other things fitted or intended to be used for the manufacture of counterfeit money, coins, or obligations of the United States or of any foreign government, or of any bank doing business under the authority of the United States or of any State or Territory thereof, or of any bank doing business under the authority of any foreign government, or of any political division of any foreign government, is being carried on or practiced, and there search for any such counterfeit money, coins, dies, hubs, molds, plates, and other things, and for any such obligations, and if any such be found, to seize and secure the same and to make return thereof to the proper authority; and all such counterfeit money, coins, dies, hubs, molds, plates, and other things, and all such counterfeit obligations so seized shall be forfeited to the United States. (Feb. 10, 1891, ch. 127, sec. 5, 26 Stat. 743; Mar. 4, 1909, ch. 321, sec. 173, 35 Stat. 1121.)

288. "Foreign government" defined.—The words "foreign government," as used in sections 270, 271, 275, and 284 to 287 of this title, shall be deemed to include any government, faction, or body of insurgents within a country with which the United States is at peace, which government, faction, or body of insurgents may or may not have been recognized by the United States as a government. (June 15, 1917, ch. 30, title VIII, sec. 4, 40 Stat. 226.)

CHAPTER 8.—OFFENSES AGAINST POSTAL SERVICE

Cross-References

For provision extending to the Canal Zone, the laws of the United States defining crimes against the Postal Service, insofar as they are not locally inapplicable; and providing the manner of enforcement of such laws, see Canal Zone Code, title 5, section 111.

Opening or publishing sealed letters, see Canal Zone Code, title 5, section 808.

Section 301. Definition.—The words "postal service," wherever used in this chapter, shall be held and deemed to include the "Post Office Department." (Mar. 4, 1909, ch. 321, sec. 231, 35 Stat. 1134.)

302. Conducting post office without authority.—Whoever, without authority from the Postmaster General, shall set up or profess to keep any office or place of business bearing the sign, name, or title of post office, shall be fined not more than $500. (R.S. sec. 3829; Mar. 4, 1909, ch. 321, sec. 179, 35 Stat. 1123.)

303. Illegal carrying of mail by officials.—Whoever, being concerned in carrying the mail, shall collect, receive, or carry any letter or packet, or cause or procure the same to be done, contrary to law, shall be fined not more than $50, or imprisoned not more than thirty days, or both. (R.S. sec. 3981; Mar. 4, 1909, ch. 321, sec. 180, 35 Stat. 1123.)

304. Conveying mail by private express; delivery to post office allowed.—Whoever shall establish any private express for the conveyance of letters or packets, or in any manner cause or provide for the conveyance of the same by regular trips or at stated periods over any post route which is or may be established by law, or from any city, town, or place, to any other city, town, or place, between which the mail is regularly carried, or whoever shall aid or assist therein shall be fined not more than $500, or imprisoned not more than six months, or both. Nothing contained in this section shall be construed as prohibiting any person from receiving and delivering to the nearest post office, postal car, or other authorized depository for mail matter, any mail matter properly stamped. (R.S. sec. 3982; Mar. 3, 1879, ch. 180, sec. 1, 20 Stat. 356; Mar. 4, 1909, ch. 321, sec. 181, 35 Stat. 1123.)

305. Transporting persons unlawfully conveying mail.—Whoever, being the owner, driver, conductor, master or other person having charge of any stagecoach, railway car, steamboat, or other vehicle or vessel, shall knowingly convey or knowingly permit the conveyance of any person acting or employed as a private express for the conveyance of letters or packets, and actually in possession of the same for the purpose of conveying them, contrary to law, shall be fined not more than $150. (R.S. sec. 3983; Mar. 4, 1909, ch. 321, sec. 182, 35 Stat. 1124.)

306. Sending letters by private express.—Whoever shall transmit by private express or other unlawful means, or deliver to any agent thereof, or deposit or cause to be deposited at any appointed place, for the purpose of being so transmitted, any letter or packet, shall be fined not more than $50. (R.S. sec. 3984; Mar. 4, 1909, ch. 321, sec. 183, 35 Stat. 1124.)

307. Carrying letters out of the mail over post routes.—Whoever, being the owner, driver, conductor, master, or other person having charge of any stagecoach, railway car, steamboat, or conveyance of any kind which regularly performs trips at stated periods on any post route, or from any city, town, or place to any other city, town, or place between which the mail is regularly carried, and which shall carry, otherwise than in the mail, any letters or packets, except such as relate to some part of the cargo of such steamboat or other vessel, to the current business of the carrier, or to some article carried at the same time by the same stagecoach, railway car, or other vehicle, except as otherwise provided by law, shall be fined not more than $50. (R.S. sec. 3985; Mar. 4, 1909, ch. 321, sec. 184, 35 Stat. 1124.)

308. Carrying letters out of the mail on vessels.—Whoever shall carry any letter or packet on board any vessel which carries the mail, otherwise than in such mail, except as otherwise provided by law, shall be fined not more than $50, or imprisoned not more than one month, or both. (R.S. sec. 3986; Mar. 4, 1909, ch. 321, sec. 185, 35 Stat. 1124.)

CROSS-REFERENCE

See, also, title 39, section 496.

Section 309. When conveyance by private person is lawful.—Nothing in this chapter shall be construed to prohibit the conveyance or transmission of letters or packets by private hands without compensation, or by special messenger employed for the particular occasion only. (R.S. sec. 3992; Mar. 4, 1909, ch. 321, sec. 186, 35 Stat. 1124.)

310. Wearing carrier's uniform without authority.—Whoever, not being connected with the letter-carrier branch of the Postal Service, shall wear the uniform or badge which may be prescribed by the Postmaster General, to be worn by letter carriers, shall be fined not more than $100, or imprisoned not more than six months, or both. (R.S. sec. 3867; Mar. 4, 1909, ch. 321, sec. 187, 35 Stat. 1124.)

311. Vehicles claiming to be mail carriers.—It shall be unlawful to paint, print, or in any manner to place upon or attach to any steamboat or other vessel, or any car, stagecoach, vehicle, or other conveyance, not actually used in carrying the mail, the words "United States Mail," or any words, letters, or characters of like import; or to give notice, by publishing in any newspaper or otherwise, that any steamboat or other vessel, or any car, stagecoach, vehicle, or other conveyance, is used in carrying the mail, when the same is not actually so used; and every person who shall violate, and every owner, receiver, lessee, or managing operator thereof, who shall cause, suffer, or permit the violation of any provision of this section, shall be liable, and shall be fined not more than $1,000, or imprisoned not more than two years, or both. (R.S. sec. 3979; Mar. 4, 1909, ch. 321, sec. 188, 35 Stat. 1124.)

312. Injuring mail bags.—Whoever shall tear, cut, or otherwise injure any mail bag, pouch, or other thing used or designed for use in the conveyance of the mail, or shall draw or break any staple or loosen any part of any lock, chain, or strap attached thereto, with intent to rob or steal any such mail, or to render the same insecure, shall be fined not more than $500, or imprisoned not more than three years, or both. (R.S. sec. 5476; Mar. 4, 1909, ch. 321, sec. 189, 35 Stat. 1124.)

313. Stealing post-office property.—Whoever shall steal, purloin, or embezzle any mail bag or other property in use by or belonging to the Post Office Department, or shall appropriate any such property to his own or any other than its proper use, or shall convey away any such property to the hindrance or deteriment of the public service, shall be fined not more than $200, or imprisoned not more than three years, or both. (R.S. sec. 5475; Mar. 4. 1909, ch. 321, sec. 190, 35 Stat. 1124.)

314. Stealing or forging mail locks or keys.—Whoever shall steal, purloin, embezzle, or obtain by any false pretense, or shall aid or assist in stealing, purloining, embezzling, or obtaining by any false pretense, any key suited to any lock adopted by the Post Office Department and in use on any of the mails or bags thereof, or any key to any lock box, lock drawer, or other authorized receptacle for the deposit or delivery of mail matter; or whoever shall knowingly and unlawfully make, forge, or counterfeit, or cause to be unlawfully made, forged, or counterfeited, any such key, or shall have in his possession any such mail lock or key with the intent unlawfully or improperly to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold, or otherwise disposed of; or whoever, being engaged as a contractor or otherwise in the manufacture of any such mail lock or key, shall deliver or cause to be delivered, any finished or unfinished lock or key used or designed for use by the department, or the interior part of any such lock, to any person not duly authorized under the hand of the Postmaster General and the seal of the Post Office Department, to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer, shall be fined not more than $500 and imprisoned not more than ten years. (R.S. sec. 5477; Mar. 4, 1909, ch. 321, sec. 191, 35 Stat. 1125.)

315. Breaking into and entering post office.—Whoever shall forcibly break into or attempt to break into any post office, or any building used in whole or in part as a post office, with intent to commit in such post office, or building, or part thereof, so used, any larceny or other depredation, shall be fined not more than $1,000 and imprisoned not more than five years. (R.S. sec. 5478; Mar. 4, 1909, ch. 321, sec. 192, 35 Stat. 1125.)

316. Unlawfully entering post-office car.—Whoever, by violence, shall enter a post-office car, or any apartment in any car, steamboat, or vessel, assigned to the use of the mail service, or shall willfully or maliciously assault or interfere with any postal clerk in the discharge of his duties in connection with such car, steamboat, vessel, or apartment thereof, or shall willfully aid or assist therein, shall be fined not more than $1,000, or imprisoned not more than three years, or both. (Mar. 3, 1903, ch. 1009, sec. 5, 32 Stat. 1176; Mar. 4, 1909, ch. 321, sec. 193, 35 Stat. 1125.)

317. Stealing, secreting, or embezzling mail matter.—Whoever shall steal, take, or abstract, or by fraud or deception obtain, from or out of any mail, post office or station thereof, or other authorized depository for mail matter, or from a letter or mail carrier, any letter, postal card, package, bag, or mail, or shall abstract or remove from any such letter, package, bag, or mail, any article or thing contained therein, or shall secrete, embezzle, or destroy any such letter, postal card, package, bag, or mail, or any article or thing contained therein; or whoever shall steal, take, or abstract, or by fraud or deception obtain any letter, postal card, package, bag, or mail, which has been left for collection upon or adjacent to a collection box or other authorized depository of mail matter; or whoever shall buy, receive, or conceal, or aid in buying, receiving, or concealing, or shall unlawfully have in his possession, any letter, postal card, package, bag, or mail, or any article or thing contained therein, which has been so stolen, taken, embezzled, or abstracted, as herein described, knowing the same to have been so stolen, taken, embezzled, or abstracted; or whoever shall take any letter, postal card, or package out of any post office or station thereof, or out of any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any post office or station thereof, or other authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with a design to obstruct the correspondence, or to pry into the business or secrets of another, or shall open, secrete, embezzle, or destroy the same, shall be fined not more than $2,000, or imprisoned not more than five years, or both. (R.S. secs. 3892, 5469, 5470; Mar. 4, 1909, ch. 321, sec. 194, 35 Stat. 1125; Feb. 25, 1925, ch. 318, 43 Stat. 977.)

318. Postmaster or employee detaining, destroying, or embezzling mail matter.—Whoever, being a postmaster or other person employed in any department of the Postal Service, shall unlawfully detain, delay, or open any letter, postal card, package, bag or mail intrusted to him or which shall come into his possession, and which was intended to be conveyed by mail, or carried or delivered by any carrier, messenger, agent, or other person employed in any department of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General; or shall secrete, embezzle, or destroy any such letter, postal card, package, bag, or mail; or shall steal, abstract, or remove from any such letter, package, bag, or mail, any article or thing contained therein, shall be fined not more than $500, or imprisoned not more than five years, or both. (R.S. secs. 3890, 3891, 5467; Mar. 4, 1909, ch. 321, sec. 195, 35 Stat. 1125.)

319. Detaining or destroying newspapers.—Whoever, being a postmaster or other person employed in any department of the Postal Service, shall improperly detain, delay, embezzle, or destroy any newspaper, or permit any other person to detain, delay, embezzle, or destroy the same, or open, or permit any other person to open, any mail or package of newspapers not directed to the office where he is employed; or whoever shall open, embezzle, or destroy any mail or package of newspapers not being directed to him, and he not being authorized to open or receive the same; or whoever shall take or steal any mail or package of newspapers from any post office or from any person having custody thereof, shall be fined not more than $100, or imprisoned not more than one year, or both. (R.S. sec. 5471; Mar. 4, 1909, ch. 321, sec. 196, 35 Stat. 1126.)

320. Assaulting mail custodian and robbing mail; wounding custodian.—Whoever shall assault any person having lawful charge, control, or custody of any mail matter, with intent to rob, steal, or purloin such mail matter or any part thereof, or shall rob any such person of such mail or any part thereof, shall, for a first offense, be imprisoned not more than ten years; and if in effecting or attempting to effect such robbery, he shall wound the person having custody of the mail, or put his life in jeopardy by the use of a dangerous weapon, or for a subsequent offense, shall be imprisoned twenty-five years. (R.S. secs. 5472, 5473; Mar. 4, 1909, ch. 321, sec. 197, 35 Stat. 1126.)

321. Injury to letter boxes.—Whoever shall willfully or maliciously injure, tear down, or destroy any letter box or other receptacle intended or used for the receipt or delivery of mail on any mail route, or shall break open the same, or shall willfully or maliciously injure, deface, or destroy any mail deposited therein, or shall willfully take or steal such mail from or out of such letter box or other receptacle, or shall willfully aid or assist in any of the aforementioned offenses, shall for every such offense be punished by a fine of not more than $1,000 or by imprisonment for not more than three years. (R.S. secs. 3869, 5466; Apr. 21, 1902, ch. 563, sec. 1, 32 Stat. 113; Mar. 3, 1903, ch. 1009, sec. 3, 32 Stat. 1175; Mar. 4, 1909, ch. 321, sec. 198, 35 Stat. 1126; May 18, 1916, ch. 126, sec. 10, 39 Stat. 162; July 28, 1916, ch. 261, sec. 1, 39 Stat. 418.)

322. Deserting the mail.—Whoever, having taken charge of any mail, shall voluntarily quit or desert the same before he has delivered it into the post office at the termination of the route, or to some known mail carrier, messenger, agent, or other employee in the Postal Service authorized to receive the same, shall be fined not more than $500, or imprisoned not more than one year, or both. (R.S. sec. 5474; Mar. 4, 1909, ch. 321, sec. 199, 35 Stat. 1126.)

323. Delivery of letters by master of vessel.—The master or other person having charge or control of any steamboat or other vessel passing between ports or places in the United States, arriving at any such port or place where there is a post office, shall deliver to the postmaster or at the post office, within three hours after his arrival, if in the daytime, and if at night, within two hours after the next sunrise, all letters and packages brought by him or within his power or control and not relating to the cargo, addressed to or destined for such port or place, for which he shall receive from the postmaster two cents for each letter or package so delivered, unless the same is carried under a contract for carrying the mail; and for every failure so to deliver such letters or packages, the master or other person having charge or control of such steamboat or other vessel, shall be fined not more than $150. (R.S. sec. 3977; Mar. 4, 1909, ch. 321, sec. 200, 35 Stat. 1126.)

324. Obstructing the mail.—Whoever shall knowingly and willfully obstruct or retard the passage of the mail, or any carriage, horse, driver, or carrier, or car, steamboat, or other conveyance or vessel carrying the same, shall be fined not more than $100, or imprisoned not more than six months, or both. (R.S. sec. 3995; Mar. 4, 1909, ch. 321, sec. 201, 35 Stat. 1127.)

325. **Ferryman delaying mail.**—Whoever, being a ferryman, shall delay the passage of the mail by willful neglect or refusal to transport the same across any ferry, shall be fined not more than $100. (R.S. sec. 3996; Mar. 4, 1909, ch. 321, sec. 202, 35 Stat. 1127.)

326. **Letters carried in foreign vessel to be deposited in post office; failure.**—All letters or other mailable matter conveyed to or from any part of the United States by any foreign vessel, except such sealed letters relating to such vessel or any part of the cargo thereof as may be directed to the owners or consignees of the vessel, shall be subject to postage charge, whether addressed to any person in the United States or elsewhere, provided they are conveyed by the packet or other ship of a foreign country imposing postage on letters or other mailable matter conveyed to or from such country by any vessel of the United States; and such letters or other mailable matter carried in foreign vessels, except such sealed letters relating to the vessel or any part of the cargo thereof as may be directed to the owners or consignees, shall be delivered into the United States post office by the master or other person having charge or control of such vessel when arriving, and be taken from the United States post office when departing, and the postage justly chargeable by law paid thereon; and for refusing or failing to do so, or for conveying such letters or other mailable matter, or any letters or other mailable matter, intended to be conveyed in any vessel of such foreign country, over or across the United States, or any portion thereof, the party offending shall be fined not more than $1,000. Except as otherwise provided by treaty or convention the Postmaster General may require the transportation by any steamships of mail between the United States and any foreign port at the compensation fixed under authority of law. Upon refusal by the master or the commander of such steamship or vessel to accept the mail, when tendered by the Postmaster General or his representative, the collector or other officer of the port, empowered to grant clearance, on notice of the refusal aforesaid, shall withhold clearance until the collector or other officer of the port is informed by the Postmaster General or his representative that the master or commander of the steamship or vessel has accepted the mail or that conveyance by his steamship or vessel is no longer required by the Postmaster General. (R.S. sec. 4016; Mar. 4, 1909, ch. 321, sec. 203, 35 Stat. 1127; Feb. 6, 1929, ch. 157, 45 Stat. 1153.)

327. **Vessels to deliver letters at post office before entry; oath; failure.**—No vessel arriving within a port or collection district of the United States shall be allowed to make entry or break bulk until all letters on board are delivered to the nearest post office, and the master or other person having charge or control thereof has signed and sworn to the following declaration before the collector or other proper customs officer:

I, A. B., master ———, of the ———, arriving from ———, and now lying in the port of ———, do solemnly swear (or affirm) that I have to the best of my knowledge and belief delivered to the post office at ——— every letter and every bag, packet, or parcel of letters which was on board the said vessel during her last voyage, or which were in my possession or under my power or control.

And any master or other person having charge or control of such vessel who shall break bulk before he has delivered such letters shall be fined not more than $100. (R.S. sec. 3988; Mar. 4, 1909, ch. 321, sec. 204, 35 Stat. 1127.)

328. Using canceled stamps.—Whoever shall use or attempt to use in payment of postage, any canceled postage stamp, whether the same has been used or not; or shall remove, attempt to remove, or assist in removing, the canceling or defacing marks from any postage stamp, or the superscription from any stamped envelope, or postal card, that has once been used in payment of postage, with the intent to use the same for a like purpose, or to sell or offer to sell the same, or shall knowingly have in possession any such postage stamp, stamped envelope, or postal card, with intent to use the same, or shall knowingly sell or offer to sell any such postage stamp, stamped envelope, or postal card, or use or attempt to use the same in payment of postage; or whoever unlawfully and willfully shall remove from any mail matter any stamp attached thereto in payment of postage; or shall knowingly use or cause to be used in payment of postage, any postage stamp, postal card, or stamped envelope, issued in pursuance of law, which has already been used for a like purpose; shall, if he be a person employed in the Postal Service, be fined not more than $500, or imprisoned not more than three years, or both; and if he be a person not employed in the Postal Service, shall be fined not more than $500, or imprisoned not more than one year, or both. (R.S. secs. 3922–3925; Mar. 3, 1879, ch. 180, sec. 28, 20 Stat. 362; Mar. 4, 1909, ch. 321, sec. 205, 35 Stat. 1127.)

329. False returns to increase compensation.—Whoever, being a postmaster or other person employed in any branch of the Postal Service, shall make, or assist in making, or cause to be made, a false return, statement, or account to any officer of the United States, or shall make, assist in making, or cause to be made, a false entry in any record, book, or account, required by law or the rules or regulations of the Post Office Department to be kept in respect of the business or operations of any post office or other branch of the Postal Service, for the purpose of fraudulently increasing his compensation or the compensation of the postmaster or any employee in a post office; or whoever, being a postmaster or other person employed in any post office or station thereof, shall induce, or attempt to induce, for the purpose of increasing the emoluments or compensation of his office, any person to deposit mail matter in, or forward in any matter for mailing at, the office where such postmaster or other person is employed, knowing such matter to be properly mailable at another post office, shall be fined not more than $500, or imprisoned not more than two years, or both. (June 17, 1878, ch. 259. sec. 1, 20 Stat 141; Aug. 4, 1886, ch. 901, sec. 3, 24 Stat. 221; Mar. 4, 1909, ch. 321, sec. 206, 35 Stat. 1128.)

330. Collecting unlawful postage.—Whoever, being a postmaster or other person authorized to receive the postage of mail matter, shall fraudulently demand or receive any rate of postage or gratuity or reward other than is provided by law for the postage of such mail matter, shall be fined not more than $100, or imprisoned not more than six months, or both. (R. S. sec. 3899; Mar. 4, 1909, ch. 321, sec. 207, 35 Stat. 1128.)

331. **Unlawful pledging or sale of stamps; inducing purchases to increase pay.**—Whoever, being a postmaster or other person employed in any branch of the Postal Service, and being intrusted with the sale or custody of postage stamps, stamped envelopes, or postal cards, shall use or dispose of them in the payment of debts, or in the purchase of merchandise or other salable articles, or pledge or hypothecate the same, or sell or dispose of them except for cash; or sell or dispose of postage stamps or postal cards for any larger or less sum than the values indicated on their faces; or sell or dispose of stamped envelopes for a larger or less sum than is charged therefor by the Post Office Department for like quantities; or sell or dispose of, or cause to be sold or disposed of, postage stamps, stamped envelopes, or postal cards at any point or place outside of the delivery of the office where such postmaster or other person is employed; or induce or attempt to induce, for the purpose of increasing the emoluments or compensation of such postmaster, or the emoluments or compensation of any other person employed in such post office or any station thereof, or the allowances or facilities provided therefor, any person to purchase at such post office or any station thereof, or from any employee of such post office, postage stamps, stamped envelopes, or postal cards; or sell or dispose of postage stamps, stamped envelopes, or postal cards, otherwise than as provided by law or the regulations of the Post Office Department, shall be fined not more than $500, or imprisoned not more than one year, or both. (R. S. sec. 3920; June 17, 1878, ch. 259, sec. 1, 20 Stat. 141; Mar. 4, 1909, ch. 321, sec. 208, 35 Stat. 1128.)

332. **Failing to account for postage due.**—Whoever, being a postmaster or other person engaged in the Postal Service, shall collect and fail to account for the postage due upon any article of mail matter which he may deliver, without having previously affixed and canceled the special stamp provided by law, or shall fail to affix such stamp, shall be fined not more than $50. (Mar. 3, 1879, ch. 180, sec. 27, 20 Stat. 362; Mar. 4, 1909, ch. 321, sec. 209, 35 Stat. 1128.)

333. **Issuing unpaid-for money orders.**—Whoever, being a postmaster or other person employed in any branch of the Postal Service, shall issue a money order without having previously received the money therefor, shall be fined not more than $500. (R. S. sec. 4030; Mar. 4, 1909, ch. 321, sec. 210, 35 Stat. 1129.)

334. **Mailing obscene matter.**—Every obscene, lewd, or lascivious, and every filthy, book, pamphlet, picture, paper, letter, writing, print, or other publication of an indecent character, and every article or thing designed, adapted, or intended for preventing conception or producing abortion, or for any indecent or immoral use; and every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to

use or apply it for preventing conception or producing abortion, or for any indecent or immoral purpose; and every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of the hereinbefore-mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means conception may be prevented or abortion produced, whether sealed or unsealed; and every letter, packet, or package, or other mail matter containing any filthy, vile, or indecent thing, device, or substance; and every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can, be used or applied for preventing conception or producing abortion, or for any indecent or immoral purpose; and every description calculated to induce or incite a person to so use or apply any such article, instrument, substance, drug, medicine, or thing, is hereby declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier. Whoever shall knowingly deposit, or cause to be deposited, for mailing or delivery, anything declared by this section to be nonmailable, or shall knowingly take, or cause the same to be taken, from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be fined not more than $5,000, or imprisoned not more than five years, or both. The term " indecent " within the intendment of this section shall include matter of a character tending to incite arson, murder, or assassination. (R. S. sec. 3893; July 12, 1876, ch. 186, sec. 1, 19 Stat. 90; Sept. 26, 1888, ch. 1039, sec. 2, 25 Stat. 496; May 27, 1908, ch. 206, 35 Stat. 416; Mar. 4, 1909, ch. 321, sec. 211, 35 Stat. 1129; Mar. 4, 1911, ch. 241, sec. 2, 36 Stat. 1339.)

335. Mailing libelous and indecent matter on wrappers or envelopes.—All matter otherwise mailable by law, upon the envelope or outside cover or wrapper of which, or any postal card upon which, any delineations, epithets, terms, or language of an indecent, lewd, lascivious, obscene, libelous, scurrilous, defamatory, or threatening character, or calculated by the terms or manner or style of display and obviously intended to reflect injuriously upon the character or conduct of another, may be written or printed or otherwise impressed or apparent, are hereby declared nonmailable matter, and shall not be conveyed in the mails nor delivered from any post office nor by any letter carrier, and shall be withdrawn from the mails under such regulations as the Postmaster General shall prescribe. Whoever shall knowingly deposit or cause to be deposited, for mailing or delivery, anything declared by this section to be nonmailable matter, or shall knowingly take the same or cause the same to be taken from the mails for the purpose of circulating or disposing of or aiding in the circulation or disposition of the same, shall be fined not more than $5,000, or imprisoned not more than five years, or both. (June 18, 1888, ch. 394, sec. 2, 25 Stat. 187; Sept. 26, 1888, ch. 1039, sec. 1, 25 Stat. 496; Mar. 4, 1909, ch. 321, sec. 212, 35 Stat. 1129.)

336. Lottery, or gift enterprise circulars not mailable; place of trial.—No letter, package, postal card, or circular concerning any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance; and no lottery ticket or part thereof, or paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance; and no check, draft, bill, money, postal note, or money order, for the purchase of any ticket or part thereof, or of any share or chance in any such lottery, gift enterprise, or scheme; and no newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or containing any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, shall be deposited in or carried by the mails of the United States, or be delivered by any postmaster or letter carrier. Whoever shall knowingly deposit or cause to be deposited, or shall knowingly send or cause to be sent, anything to be conveyed or delivered by mail in violation of the provisions of this section, or shall knowingly deliver or cause to be delivered by mail anything herein forbidden to be carried by mail, shall be fined not more than $1,000, or imprisoned not more than two years, or both; and for any subsequent offense shall be imprisoned not more than five years. Any person violating any provision of this section may be tried and punished either in the district in which the unlawful matter or publication was mailed, or to which it was carried by mail for delivery according to the direction thereon, or in which it was caused to be delivered by mail to the person to whom it was addressed. (R.S. sec. 3894; July 12, 1876, ch. 186, sec. 2, 19 Stat. 90; Sept. 19, 1890, ch. 908, sec. 1, 26 Stat. 465; Mar. 2, 1895, ch. 191, 28 Stat. 963; Mar. 4, 1909, ch. 321, sec. 213, 35 Stat. 1129.)

CROSS-REFERENCE

For provisions relating generally to the suppression of lotteries, see Canal Zone Code, title 5, sections 471 to 477.

337. Official acting as lottery agent.—Whoever, being a postmaster or other person employed in the Postal Service, shall act as agent for any lottery office, or under color of purchase or otherwise, vend lottery tickets, or shall knowingly send by mail or deliver any letter, package, postal card, circular, or pamphlet advertising any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any ticket, certificate, or instrument representing any chance, share, or interest in or dependent upon the event of any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes awarded by means of any such scheme, shall be fined not more than $100, or imprisoned not more than one year, or both. (R.S. sec. 3851; Mar. 4, 1909, ch. 321, sec. 214, 35 Stat. 1130.)

338. Using mails to promote frauds; counterfeit money.—Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, bank note, paper money, or any obligation or security of the United States, or of any State, Territory, municipality, company, corporation, or person, or anything represented to be or intimated or held out to be such counterfeit or spurious article, or any scheme or artifice to obtain money by or through correspondence, by what is commonly called the "sawdust swindle," or "counterfeit-money fraud," or by dealing or pretending to deal in what is commonly called "green articles," "green coin," "green goods," "bills," "paper goods," "spurious Treasury notes," "United States goods," "green cigars," or any other names or terms intended to be understood as relating to such counterfeit or spurious articles, shall, for the purpose of executing such scheme or artifice or attempting so to do, place, or cause to be placed, any letter, postal card, package, writing, circular, pamphlet, or advertisement, whether addressed to any person residing within or outside the United States, in any post office, or station thereof, or street or other letter box of the United States, or authorized depository for mail matter, to be sent or delivered by the post office establishment of the United States, or shall take or receive any such therefrom, whether mailed within or without the United States, or shall knowingly cause to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such letter, postal card, package, writing, circular, pamphlet, or advertisement, shall be fined not more than $1,000, or imprisoned not more than five years, or both. (R.S. sec. 5480; Mar. 2, 1889, ch. 393, sec. 1, 25 Stat. 873; Mar. 4, 1909; ch. 321, sec. 215, 35 Stat. 1130.)

CROSS-REFERENCE

Use of mails in connection with purchase and sale of securities, see title 15, sections 77a to 77aa.

338a. Mailing threatening communications.—Whoever, with intent to extort from any person any money or other thing of value, shall knowingly deposit or cause to be deposited in any post office or station thereof, or in any authorized depository for mail matter, to be sent or delivered by the post-office establishment of the United States, any written or printed letter or other communication with or without a name or designating mark subscribed thereto, addressed to any other person, and containing any threat (1) to injure the person, property, or reputation of the addressee or of another or the reputation of a deceased person, or (2) to kidnap any person, or (3) to accuse the addressee or any other person of a crime, or containing any demand or request for ransom or reward for the release of any kidnaped person, shall be fined not more than $5,000 or imprisoned not more than twenty years, or both. (July 8, 1932, ch. 464, sec. 1, 47 Stat. 649.)

CROSS-REFERENCE

Sending threatening letters with intent to extort money, see, also, Canal Zone Code, title 5, section 686.

338b. Same; mailing in foreign country for delivery in United States.—Whoever, with intent to extort from any person any money or other thing of value, shall knowingly deposit or cause to be deposited in any post office or station thereof, or in any authorized depository for mail matter of any foreign country any written or printed letter or other communication of the character described in section 338a of this title, addressed to any person within the United States, for the purpose of having such communication delivered by the post-office establishment of such foreign country to the post-office establishment of the United States and by it delivered to such addressee in the United States, and as a result thereof such communication is delivered by the post-office establishment of such foreign country to the post-office establishment of the United States and by it delivered to the address to which it is directed in the United States, then such person shall be punished in the same manner and to the same extent as provided in section 338a of this title: *Provided*, That any person violating this section may be prosecuted either in the district into which such letter or other communication was carried by the United States mail for delivery according to the direction thereon, or in which it was caused to be delivered by the United States mail to the person to whom it was addressed. (July 8, 1932, ch. 464, sec. 2, 47 Stat. 649.)

339. Using fraudulent fictitious address.—Whoever, for the purpose of conducting, promoting, or carrying on, in any manner, by means of the post office establishment of the United States, any scheme or device mentioned in the section last preceding or any other unlawful business whatsoever, shall use or assume, or request to be addressed by, any fictitious, false, or assumed title, name, or address, or name other than his own proper name, or shall take or receive from any post office of the United States, or station thereof, or any other authorized depository of mail matter, any letter, postal card, package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than his own proper name, shall be punished as provided in section 338 of this title. (Mar. 2, 1889, ch. 393, sec. 2, 25 Stat. 873; Mar. 4, 1909, ch. 321, sec. 216, 35 Stat. 1131.)

340. Poisons or explosives not mailable; packing permitted; intoxicating liquors; mailing; injurious intent.—All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, and reptiles, and explosives of all kinds, and inflammable materials, and infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, and all disease germs or scabs, and all other natural or artificial articles, compositions, or material, of whatever kind, which may kill or in anywise hurt, harm, or injure another, or damage, deface, or otherwise injure the mails or other property, whether sealed as first-class matter or not, are hereby declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any letter carrier; but the Postmaster General may permit the transmission in the mails, under such rules and regulations as he shall prescribe as to prepartion and packing, of any articles hereinbefore described which are not outwardly or of their own force dangerous or injurious to life, health, or property: *Provided*, That the transmission in the mails of poisonous drugs and medicines may be limited by the Postmaster General to shipments of such articles from the manufacturer thereof or dealer therein to licensed physicians, surgeons, dentists, pharmacists, druggists, and veterinarians, under such rules and regulations as he shall prescribe: *Provided further*, That all spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind are hereby declared to be nonmailable and shall not be deposited in or carried through the mails. Whoever shall knowingly deposit or cause to be deposited for mailing or delivery, or shall knowingly cause to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared by this section to be nonmailable, unless in accordance with the rules and regulations hereby authorized to be prescribed by the Postmaster General, shall be fined not more than $1,000 or imprisoned not more than two years, or both; and whoever shall knowingly deposit or cause to be deposited for mailing or delivery, or shall knowingly cause to be delivered by mail, according to the direction thereon or at any place to which it is directed to be delivered by the person to whom it is addressed, anything declared by this section to be nonmailable, whether transmitted in accordance with the rules and regulations authorized to be prescribed by the Postmaster General or not, with the design, intent, or purpose to kill or in anywise hurt, harm, or injure another, or damage, deface, or otherwise injure the mails or other property, shall be fined not more than $10,000 or imprisoned not more than twenty years, or both. (Mar. 4, 1909, ch. 321, sec. 217, 35 Stat. 1131; May 25, 1920, ch. 196, 41 Stat. 620; Jan. 11, 1929, ch. 53, 45 Stat. 1072.)

341. Use of mails for advertisements of intoxicating liquors in prohibition States.—No letter, postal card, circular, newspaper, pamphlet, or publication of any kind containing any advertisement of spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind, or containing a solicitation of an order or orders for said liquors, or any of them, shall be deposited in or carried by the mails of the United States, or be delivered by any postmaster or letter carrier, when addressed or directed to any person, firm, corporation, or association, or other addressee, at any place or point in any State or Territory of the United States, or the District of Columbia, at which it is by the law in force in the State or Territory or the District of Columbia at that time unlawful to advertise or solicit orders for such liquors, or any of them, respectively. If the publisher of any newspaper or other publication or the agent of such publisher, or if any dealer in such liquors or his agent, shall knowingly deposit or cause to be deposited, or shall knowingly send or cause to be sent, anything to be conveyed or delivered by mail in violation of the provisions of this section, or shall knowingly deliver or cause to be delivered by mail anything herein forbidden to be carried by mail shall be fined not more than $1,000 or imprisoned not more than six months, or both; and for any subsequent offense shall be imprisoned not more than one year. Any person violating any provision of this section may be tried and punished, either in the district in which the unlawful matter or publication was mailed or to which it was carried by mail for delivery, according to direction thereon, or in which it was caused to be delivered by mail to the person to whom it was addressed. The Postmaster General is hereby authorized and directed to make public from time to time in suitable bulletins or public notices the names of States in which it is unlawful to advertise or solicit orders for such liquors: *Provided*, *however*, That nothing in this section shall apply to newspapers published in foreign countries when mailed to this country. (Mar. 3, 1917, ch. 162, sec. 5, 39 Stat. 1069; Mar. 4, 1917, ch. 192, 39 Stat. 1202; Feb. 24, 1919, ch. 18, sec. 1407, 40 Stat. 1151; Oct. 28, 1919, ch. 85, Title II, sec. 17, 41 Stat. 313.)

342. Same; ethyl alcohol for governmental purposes; wine for sacramental purposes.—Section 341 of this title shall not be construed to apply to ethyl alcohol for governmental, scientific, medicinal, mechanical, manufacturing, and industrial purposes, and the Postmaster General shall prescribe suitable rules and regulations to carry into effect this section and section 341, nor shall said sections be held to prohibit the use of the mails by regularly ordained ministers of religion, or by officers of regularly established churches, for ordering wines for sacramental uses, or by manufacturers and dealers for quoting and billing such wines for such purposes only. (Oct. 3, 1917, ch. 63, sec. 1110, 40 Stat. 329.)

343. Certain letters or writings nonmailable; opening letters.—Every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book, or other publication, matter or thing, of any kind, in violation of any of the provisions of sections 25, 27, 31 to 38, inclusive, 98, 130 to 132, inclusive, 288, 381, 502, 611 to 633, inclusive, of this title, sections 213, 220 to 222, inclusive, 231 to 235, inclusive, and 238 to 245, inclusive, of Title 22, and sections 31 to 42 and 191 to 194 of Title 50 is hereby declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier; but no person other than an employee of the Dead Letter Office, duly authorized thereto, or other person upon a search warrant authorized by law, shall be authorized to open any letter not addressed to himself. (June 15, 1917, ch. 30, Title XII, sec. 1, 40 Stat. 230.)

CROSS-REFERENCE

Jurisdiction of district court and duties of district attorney in the Canal Zone in respect to offenses under sections 343 to 345 of this title, see section 574 of this title.

344. Letters or writings advocating treason declared nonmailable.—Every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book, or other publication, matter or thing, of any kind, containing any matter advocating or urging treason, insurrection, or forcible resistance to any law of the United States, is hereby declared to be nonmailable. (June 15, 1917, ch. 30, title XII, sec. 2, 40 Stat. 230.)

345. Using or attempting to use mails for transmission of matter declared nonmailable by title; jurisdiction of offense.—Whoever shall use or attempt to use the mails or Postal Service of the United States for the transmission of any matter declared by sections 343 and 344 of this title to be nonmailable, shall be fined not more than $5,000 or imprisoned not more than five years, or both. Any person violating any provision of said sections may be tried and punished either in the district in which the unlawful matter or publication was mailed, or to which it was carried by mail for delivery according to the direction thereon, or in which it was caused to be delivered by mail to the person to whom it was addressed. (June 15, 1917, ch. 30, title XII, sec. 3, 40 Stat. 230.)

346. United States defined.—The term "United States", as used in sections 343 to 345 of this title, includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. (June 15, 1917, ch. 30, title XIII, sec. 1, 40 Stat. 231.)

347. Counterfeiting money orders.—Whoever, with intent to defraud, shall falsely make, forge, counterfeit, engrave, or print, or cause or procure to be falsely made, forged, counterfeited, engraved, or printed, or shall willingly aid or assist in falsely making, forging, counterfeiting, engraving, or printing, any order in imitation of or purporting to be a money order issued by the Post Office Department, or by any postmaster or agent thereof; or whoever shall forge or counterfeit the signature of any postmaster, assistant postmaster, chief clerk, or clerk, upon or to any money order, or postal note, or blank therefor provided or issued by or under the direction of the Post Office Department, of the United States, or of any foreign country, and payable in the United States, or any material signature or indorsement thereon, or any material signature to any receipt or certificate of identification thereon; or shall falsely alter, or cause or procure to be falsely altered in any material respect, or knowingly aid or assist in falsely so altering any such money order or postal note; or shall, with intent to defraud, pass, utter, or publish any such forged or altered money order or postal note, knowing any material signature or indorsement thereon to be false, forged, or counterfeited, or any material alteration therein to have been falsely made; or shall issue any money order or postal note without having previously received or paid the full amount of money payable therefor, with the purpose of fraudulently obtaining or receiving, or fraudulently enabling any other person, either directly or indirectly, to obtain or receive from the United States, or any officer, employee, or agent thereof, any sum of money whatever; or shall, with intent to defraud the United States, or any person, transmit or present to, or cause or procure to be transmitted or presented to, any officer or employee, or at any office of the Government of the United States, any money order or postal note, knowing the same to contain any forged or counterfeited signature to the same, or to any material indorsement, receipt, or certificate thereon, or material alteration therein unlawfully made, or to have been unlawfully issued without previous payment of the amount required to be paid upon such issue, shall be fined not more than $5.000, or imprisoned not more than five years, or both. (R.S. sec. 5463; Jan. 3, 1887, ch. 13, sec. 2, 24 Stat. 355; June 18, 1888, ch. 394, sec. 2, 25 Stat. 187; Mar. 4, 1909, ch. 321, sec. 218, 35 Stat. 1131.)

348. Counterfeiting postage stamps.—Whoever shall forge or counterfeit any postage stamp, or any stamp printed upon any stamped envelope, or postal card, or any die, plate, or engraving therefor; or shall make or print, or knowingly use or sell, or have in possession with intent to use or sell, any such forged or counterfeited postage stamp, stamped envelope, postal card, die, plate, or engraving; or shall make, or knowingly use or sell, or have in possession with intent to use or sell, any paper bearing the watermark of any stamped envelope, or postal card, or any fraudulent imitation thereof; or shall make or print, or authorize or procure to be made or printed, any postage stamp, stamped envelope, or postal card, of the kind authorized and provided by the Post Office Department, without the special authority and direction of said department; or shall, after such postage stamp, stamped envelope, or postal card has been printed, with intent to defraud, deliver the same to any person not authorized by an instrument in writing, duly executed under the hand of the Postmaster General and the seal of the Post Office Department, to receive it, shall be fined not more than $500, or imprisoned not more than five years, or both. (R.S. sec. 5464; Mar. 4, 1909, ch. 321, sec. 219, 35 Stat. 1132.)

349. Counterfeiting foreign stamps.—Whoever shall forge, or counterfeit, or knowingly utter or use any forged or counterfeit postage stamp or revenue stamp of any foreign government shall be fined not more than $500, or imprisoned not more than five years, or both: *Provided*, *however*, That nothing in this section shall be held to repeal or modify section 350 of this title.

The words " foreign government ", as used in this section shall be deemed to include any government, faction, or body of insurgents within a country with which the United States is at peace, which government, faction, or body of insurgents may or may not have been recognized by the United States as a government. (R.S. sec. 5465; Mar. 4, 1909, ch. 321, sec. 220, 35 Stat. 1132; June 15, 1917, ch. 30, title VIII, sec. 4, 40 Stat. 226; May 26, 1926, ch. 396, 44 Stat. 653.)

350. Printing and publishing of illustrations in black and white of foreign postage or revenue stamps from defaced plates and illustrations in black and white of portions of United States stamps allowed.—Nothing in sections 275, 286, and 349 of this title, shall be construed to forbid or prevent the printing or publishing of illustrations in black and white of foreign postage or revenue stamps from plates so defaced as to indicate that the illustrations are not adapted or intended for use as stamps, or to prevent or forbid the making of necessary plates therefor for use in philatelic or historical articles, books, journals, or albums, or the circulars of legitimate publishers or dealers in such stamps, books, journals, or albums. Nothing in said sections shall be construed to forbid or prevent similar illustrations, in black and white only, in philatelic or historical articles, books, journals, albums, or the circulars of legitimate publishers or dealers in such stamps, books, journals, albums, or circulars, of such portion of the border of a stamp of the United States as may be necessary to show minor differences in the stamp so illustrated, but all such illustrations shall be at least four times as large as the portion of the original United States stamp so illustrated. (Mar. 3, 1923, ch. 218, 42 Stat. 1437.)

351. **Inclosing higher in lower class matter.**—Matter of the second, third, or fourth class containing any writing or printing in addition to the original matter, other than as authorized by law, shall not be admitted to the mails, nor delivered, except upon payment of postage for matter of the first class, deducting therefrom any amount which may have been prepaid by stamps affixed, unless by direction of the Postmaster General such postage shall be remitted. Whoever shall knowingly conceal or inclose any matter of a higher class in that of a lower class, and deposit or cause the same to be deposited for conveyance by mail, at a less rate than would be charged for such higher class matter, shall be fined not more than $100. (R.S. sec. 3887; Jan. 20, 1888, ch. 2, sec. 2, 25 Stat. 2; Mar. 4, 1909, ch. 321, sec. 221, 35 Stat. 1132.)

352. **Illegally approving bond.**—Whoever, being a postmaster, shall affix his signature to the approval of any bond of a bidder, or to the certificate of sufficiency of sureties in any contract, before the said bond or contract is signed by the bidder or contractor and his sureties, or shall knowingly, or without the exercise of due diligence, approve any bond of a bidder with insufficient sureties, or shall knowingly make any false or fraudulent certificate, shall be forthwith dismissed from office and be thereafter disqualified from holding the office of postmaster; and shall also be fined not more than $5,000, or imprisoned not more than one year, or both. (R.S. sec. 3947; June 23, 1874, ch. 456, sec. 12, 18 Stat. 235; Mar. 4, 1909, ch. 321, sec. 222, 35 Stat. 1133.)

353. **Submitting false evidence as to second-class matter.**—Whoever shall knowingly submit or cause to be submitted to any postmaster or to the Post Office Department or any officer of the Postal Service, any false evidence relative to any publication for the purpose of securing the admission thereof at the second-class rate, for transportation in the mails, shall be fined not more than $500. (Mar. 3, 1879, ch. 180, sec. 13, 20 Stat. 359; June 18, 1888, ch. 394, sec. 1, 25 Stat. 187; Mar. 2, 1905, ch. 1304, 33 Stat. 823; Mar. 4, 1909, ch. 321, sec. 223, 35 Stat. 1133.)

354. **Inducing or prosecuting false claims for losses.**—Whoever shall make, allege, or present, or cause to be made, alleged, or presented, or assist, aid, or abet in making, alleging, or presenting, any claim or application for indemnity for the loss of any registered

letter, parcel, package, or other article or matter, or the contents thereof, knowing such claim or application to be false, fictitious, or fraudulent; or whoever for the purpose of obtaining or aiding to obtain the payment or approval of any such claim or application, shall make or use, or cause to be made or used, any false statement, certificate, affidavit, or deposition; or whoever shall knowingly and willfully misrepresent, or misstate, or, for the purpose aforesaid shall knowingly and willfully conceal any material fact or circumstance in respect of any such claim or application for indemnity, shall be fined not more than $500, or imprisoned not more than one year, or both. (Mar. 4, 1909, ch. 321, sec. 224, 35 Stat. 1133.)

355. Misappropriating postal funds; prima facie evidence; deposits permitted.—Whoever, being a postmaster or other person employed in or connected with any branch of the Postal Service, shall loan, use, pledge, hypothecate, or convert to his own use, or shall deposit in any bank, or exchange for other funds or property, except as authorized by law, any money or property coming into his hands or under his control in any manner whatever, in the execution or under color of his office, employment, or service, whether the same shall be the money or property of the United States or not; or shall fail or refuse to remit to or deposit in the Treasury of the United States or in a designated depository, or to account for or turn over to the proper officer or agent, any such money or property, when required so to do by law or the regulations of the Post Office Department, or upon demand or order of the Postmaster General, either directly or through a duly authorized officer or agent, shall be deemed guilty of embezzlement; and every such person, as well as every other person advising or knowingly participating therein, shall be fined in a sum equal to the amount or value of the money or property embezzled, or imprisoned not more than ten years, or both. Any failure to produce or to pay over any such money or property, when required so to do as above provided, shall be taken to be prima facie evidence of such embezzlement; and upon the trial of any indictment against any person for such embezzlement, it shall be prima facie evidence of a balance against him to produce a transcript from the account books of the General Accounting Office. But nothing herein shall be construed to prohibit any postmaster depositing, under the direction of the Postmaster General, in a national bank designated by the Secretary of the Treasury for that purpose, to his own credit as postmaster, any funds in his charge, nor prevent his negotiating drafts or other evidences of debt through such bank, or through United States disbursing officers, or otherwise, when instructed or required so to do by the Postmaster General, for the purpose of remitting surplus funds from one post office to another. (R.S. secs. 4046, 4053; Mar. 4, 1909, ch. 321, sec. 225, 35 Stat. 1133; June 10, 1921, ch. 18, sec. 304, 42 Stat. 24.)

356. Employees interested in mail contracts.—Whoever, being a person employed in the Postal Service, shall become interested in any contract for carrying the mail, or act as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before the department, shall be immediately dismissed from office, and shall be fined not more than $5,000, or imprisoned not more than one year, or both. (R.S. sec. 412; Mar. 4, 1909, ch. 321, sec. 226, 35 Stat. 1134.)

357. Fraudulent use of official envelopes.—Whoever shall make use of any official envelope. label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined not more than $300. (Mar. 3, 1877, ch. 103, sec. 5, 19 Stat. 335; Mar. 3, 1879, ch. 180, sec. 29, 20 Stat. 362; July 5, 1884, ch. 234, sec. 3, 23 Stat. 158; July 2, 1886, ch. 611, 24 Stat. 122; Mar. 4, 1909, ch. 321, sec. 227, 35 Stat. 1134.)

358. Fraudulently increasing weight of mail.—Whoever shall place or cause to be placed any matter in the mails during the regular weighing period, for the purpose of increasing the weight of the mail, with intent to cause an increase in the compensation of the railroad mail carrier over whose route such mail may pass, shall be fined not more than $20,000, or imprisoned not more than five years, or both. (June 13, 1898, ch. 446, sec. 1, 30 Stat. 442; Mar. 4, 1909, ch. 321, sec. 228, 35 Stat. 1134.)

359. Offenses against foreign mail in transit; indictments.—Every foreign mail, shall, while being transported across the territory of the United States under authority of law, be taken and deemed to be a mail of the United States so far as to make any violation thereof, or depredation thereon, or offense in respect thereto, or any part thereof, an offense of the same grade, and punishable in the same manner and to the same extent as though the mail was a mail of the United States; and in any indictment or information for any such offense, the mail, or any part thereof, may be alleged to be, and on the trial of any such indictment or information it shall be deemed and held to be, a mail or part of a mail of the United States. (R.S. sec. 4013; Mar. 4, 1909, ch. 321, sec. 229, 35 Stat. 1134.)

360. Omission to take oath.—Every person employed in the Postal Service shall be subject to all penalties and forfeitures for the violation of the laws relating to such service, whether he has taken the oath of office or not. (R.S. sec. 3832; Mar. 4, 1909, ch. 321, sec. 230, 35 Stat. 1134.)

361. Mailing pistols, revolvers and other firearms capable of being concealed on person.—Pistols, revolvers, and other firearms capable of being concealed on the person are hereby declared to be nonmailable and shall not be deposited in or carried by the mails or delivered by any postmaster, letter carrier, or other person in the Postal Service: *Provided*, That such articles may be conveyed in the mails, unders such regulations as the Postmaster General shall prescribe, for use in connection with their official duty, to officers of the Army, Navy, Marine Corps, or officers' Reserve Corps; to officers of the National Guard or Militia of the several States, Territories, and Districts; to officers of the United States or of the several States, Territories, and Districts whose official duty is to serve process of warrants of arrest or mittimus of commitment; to employees of the Postal Service; and to watchmen engaged in guarding the property of the United States, the several States, Territories, and Districts: *And provided further*, That such articles may be conveyed in the mails to manufacturers of firearms or bona fide dealers therein in customary trade shipments, including such articles for repairs or replacement of parts, from one to the other, under such regulations as the Postmaster General shall prescribe. Whoever shall knowingly deposit or cause to be deposited for mailing or delivery, or shall knowingly cause to be delivered by mail according to the direction thereon, or at any place to which it is directed to be delivered by the person to whom it is addressed, any pistol, revolver, or firearm, declared by this section to be nonmailable, shall be fined not exceeding $1,000 or imprisoned not more than two years, or both. (Feb. 8, 1927, ch. 75, sec. 1, 44 Stat. 1059.)

CHAPTER 9.—OFFENSES AGAINST FOREIGN AND INTERSTATE COMMERCE

Section 381. Violent interference with foreign commerce.—Whoever, with intent to prevent, interfere with, or obstruct or attempt to prevent, interfere with, or obstruct the exportation to foreign countries of articles from the United States, shall injure or destroy, by fire or explosives, such articles or the places where they may be while in such foreign commerce, shall be fined not more than $10,000, or imprisoned not more than ten years, or both. The term "United States," as used in this section, includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. (June 15, 1917, ch. 30, title IV, sec. 1, 40 Stat. 221; June 15, 1917, ch. 30, title XIII, sec. 1, 40 Stat. 231.)

Cross-Reference

Jurisdiction of the district court in the Canal Zone of offenses under this section, see section 574 of this title.

387. Importing lottery tickets; interstate carriage.—Whoever shall bring or cause to be brought into the United States or any place subject to the jurisdiction thereof, from any foreign country, for the purpose of disposing of the same, any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or change, or any advertisement of, or list of the prizes drawn or awarded by means of, any such lottery, gift enterprise, or similar scheme; or shall therein knowingly deposit or cause to be deposited with any express company or other common carrier for carriage, or shall carry, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, to any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States through a foreign country to any place in or subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States to a foreign country, any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon, the event of any such lottery, gift enterprise, or similar scheme, or any advertisement of, or list of the prizes drawn or awarded by means of, any such lottery, gift enterprise, or similar scheme, or shall knowingly take or receive, or cause to be taken or received, any such paper, certificate, instrument, advertisement, or list so brought, deposited, or transported, shall, for the first offense, be fined not more than $1,000, or imprisoned not more than two years, or both; and for any subsequent offense shall be imprisoned not more than two years. (Mar. 2, 1895, ch. 191, 28 Stat. 963; Mar. 4, 1909, ch. 321, sec. 237, 35 Stat. 1136.)

NOTE.—Sections 387 to 390 and 396 of this title are shown because of their express application to "places noncontiguous to but subject to the jurisdiction" of the United States.

388. Intoxicating liquors; by interstate shipment; delivery to other than bona fide consignee.—Any officer, agent, or employee of any railroad company, express company, or other common carrier, who shall knowingly deliver or cause to be delivered to any person other than the person to whom it has been consigned, unless upon the written order in each instance of the bona fide consignee, or to any fictitious person, or to any person under a fictitious name, any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind which has been shipped from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, shall be fined not more than $5,000, or imprisoned not more than two years, or both. (Mar. 4, 1909, ch. 321, sec. 238, 35 Stat. 1136.)

389. Same; carrier collecting purchase price of interstate shipment.—Any railroad company, express company, or other common carrier, or any other person who, in connection with the transportation of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, shall collect the purchase price or any part thereof, before, on, or after delivery, from the consignee, or from any other person, or shall in any manner act as the agent of the buyer or seller of any such liquor for the purpose of buying or selling or completing the sale thereof, saving only in the actual transportation and delivery of the same, shall be fined not more than $5,000. (Mar. 4, 1909, ch. 321, sec. 239, 35 Stat. 1136.)

390. Same; shipping packages in interstate commerce not plainly marked.—Whoever shall knowingly ship or cause to be shipped, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, any package of or package containing any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, unless such package be so labeled on the outside cover as to plainly show the name of the consignee, the nature of its contents. and the quantity contained therein, shall be fined not more than $5,000; and such liquor shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law. (Mar. 4, 1909, ch. 321, sec. 240, 35 Stat. 1137.)

396. Importing and transporting obscene books.—Whoever shall bring or cause to be brought into the United States, or any place subject to the jurisdiction thereof, from any foreign country, or shall therein knowingly deposit or cause to be deposited with any express company or other common carrier, for carriage from one State, Territory, or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, to any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States, through a foreign country, to any place in or subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States to a foreign country, any obscene, lewd, or lascivious, or any filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character, or any drug, medicine, article, or thing designed, adapted, or intended for preventing conception, or producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of the hereinbefore mentioned articles, matters, or things may be obtained or made; or whoever shall knowingly take or cause to be taken from such express company or other common carrier any matter or thing the depositing of which for carriage is herein made unlawful, shall be fined not more than $5,000 or imprisoned not more than five years, or both. (Feb. 8, 1897, ch. 172, 29 Stat. 512; Feb. 8, 1905, ch. 550, 33 Stat. 705; Mar. 4, 1909, ch. 321, sec. 245, 35 Stat. 1138; June 5, 1920, ch. 268, 41 Stat. 1060.)

397. White-slave traffic; terms defined.—The term "interstate commerce," as used in this section and sections 398 to 404 of this title, shall include transportation from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, and the term "foreign commerce" shall include transportation from any State or Territory or the District of Columbia to any foreign country and from any foreign country to any State or Territory or the District of Columbia. (June 25, 1910, ch. 395, sec. 1, 36 Stat. 825.)

398. Same; transportation of woman or girl for immoral purposes, or procuring ticket.—Any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $5,000. or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court. (June 25, 1910, ch. 395, sec. 2, 36 Stat. 825.)

399. Same; inducing transportation for immoral purposes.—Any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing, or coercing any woman or girl to go from one place to another in interstate or foreign commerce, or in any Territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Columbia, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not more than $5,000, or by imprisonment for a term not exceeding five years or by both such fine and imprisonment, in the discretion of the court. (June 25, 1910, ch. 395, sec. 3, 36 Stat. 825.)

400. Same; inducing interstate transportation of woman or girl under eighteen for immoral purposes.—Any person who shall knowingly persuade, induce, entice, or coerce any woman or girl under the age of eighteen years from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, with the purpose and intent to induce or coerce her, or that she shall be induced or coerced to engage in prostitution or debauchery, or any other immoral practice, and shall in furtherance of such purpose knowingly induce or cause her to go and to be carried or transported as a passenger in interstate commerce upon the line or route of any common carrier or carriers, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $10,000, or by imprisonment for a term not exceeding ten years, or by both such fine and imprisonment, in the discretion of the court. (June 25, 1910, ch. 395, sec. 4, 36 Stat. 826.)

401. Same; jurisdiction of prosecutions.—Any violation of any of sections 398 to 400 of this title shall be prosecuted in any court having jurisdiction of crimes within the district in which said violation was committed, or from, through, or into which any such woman or girl may have been carried or transported as a passenger in interstate or foreign commerce, or in any Territory or the District of Columbia, contrary to the provisions of any of said sections. (June 25, 1910, ch. 395, sec. 5, 36 Stat. 826.)

402. Same; (1) prevention of transportation in foreign commerce of alien women and girls under international agreement; Commissioner General of Immigration designated as authority to receive information; duty to receive and keep statements of and pertaining to them.—For the purpose of regulating and preventing the transportation in foreign commerce of alien women and girls for purposes of prostitution and debauchery, and in pursuance of and for the purpose of carrying out the terms of the agreement or project of arrangement for the suppression of the white-slave traffic, adopted July 25, 1902, for submission to their respective governments by the delegates of various powers represented at the Paris Conference and confirmed by a formal agreement signed at Paris on May 18, 1904, and adhered to by the United States on June 6, 1908, as shown by the proclamation of the President of the United States, dated June 15, 1908, the Commissioner General of Immigration is hereby designated as the authority of the United States to receive and centralize information concerning the procuration of alien women and girls with a view to their debauchery, and to exercise supervision over such alien women and girls, receive their declarations, establish their identity, and ascertain from them who induced them to leave their native countries, respectively; and it shall be the duty of said Commissioner General of Immigration to receive and keep on file in his office the statements and declarations which may be made by such alien women and girls, and those which are hereinafter required pertaining to such alien women and girls engaged in prostitution or debauchery in this country, and to furnish receipts for such statements and declarations provided for in sections 397 to 404 of this title to the persons, respectively, making and filing them.

(2) Statement by person keeping woman or girl for immoral purposes; failure to file, making false statement, or failure to disclose facts.—Every person who shall keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she shall have entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic, shall file with the Commissioner General of Immigration a statement in writing setting forth the name of such alien woman or girl, the place at which she is kept, and all facts as to the date of her entry into the United States, the port through which she entered, her age, nationality, and parentage, and concerning her procuration to come to this country within the knowledge of such person, and any person who shall fail within thirty days after such person shall commence to keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she shall have entered the United States from any of the countries, party to the said arrangement for the suppression of the white-slave traffic, to file such statement concerning such alien woman or girl with the Commissioner General of Immigration, or who shall knowingly and willfully state falsely or fail to disclose in such statement any fact within his knowledge or belief with reference to the age, nationality, or parentage of any such alien woman or girl, or concerning her procuration to come to this country, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not more than $2,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court.

(3) Presumption of failure to file statement not on file; failure to furnish not excused by self-criminating tendency; immunity from prosecution.—In any prosecution brought under sections 397 to 404 of this title, if it appear that any such statement required is not on file in the office of the Commissioner General of Immigration, the person whose duty it shall be to file such statement shall be presumed to have failed to file said statement, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section, on the ground or for the reason that the statement so required by him, or the information therein contained, might tend to criminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture under any law of the United States for or on account of any transaction, matter, or thing, concerning which he may truthfully report in such statement. (June 25, 1910, ch. 395, sec. 6, 36 Stat. 826.)

403. Same; "Territory", "person" construed; liability of persons or corporations for acts and omissions of officers, agents, or employees.—The term "Territory", as used in sections 397 to 404 of this title, shall include the Territory of Alaska, the insular possessions of the United States, and the Canal Zone. The word "person" shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of sections 397 to 404, the act, omission, or failure of any officer, agent, or other person, acting for or employed by any other person or by any corporation, company, society, or association within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such other person, or of such company, corporation, society, or association, as well as that of the person himself. (June 25, 1910, ch. 395, sec. 7, 36 Stat. 827.)

404. Citation.—Sections 397 to 404 of this title shall be known and referred to as the "White Slave Traffic Act." (June 25, 1910, ch. 395, sec. 8, 36 Stat. 827.)

CHAPTER 10.—SLAVE TRADE AND PEONAGE

Section 446. Bringing kidnaped person into place subject to jurisdiction of United States.—Whoever shall knowingly and willfully bring into the United States or any place subject to the jurisdiction thereof, any person inveigled or forcibly kidnaped in any other country, with intent to hold such person so inveigled or kidnaped in confinement or to any involuntary servitude; or whoever shall knowingly and willfully sell or cause to be sold, into any condition of involuntary servitude, any other person for any term whatever; or whoever shall knowingly and willfully hold to involuntary servitude any person so brought or sold, shall be fined not more than $5,000 and imprisoned not more than five years. (June 23, 1874, ch. 464, sec. 1, 18 Stat. 251; Mar. 4, 1909, ch. 321, sec. 271, 35 Stat. 1142.)

CHAPTER 11.—OFFENSES WITHIN ADMIRALTY, MARITIME, AND TERRITORIAL JURISDICTION OF UNITED STATES

Cross-Reference

For provisions conferring upon the district court in the Canal Zone jurisdiction over offenses under the criminal laws of the United States when committed upon the high seas and when the offender is found within or brought into the Canal Zone, see Canal Zone Code, title 7, section 26.

Section 451. Places and waters applicable; on board American vessel on high seas or Great Lakes; on land under exclusive control of United States; guano islands.—The crimes and offenses defined in this chapter shall be punished as herein prescribed:

First. When committed upon the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, or when committed within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State on board any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, or District thereof.

Second. When committed upon any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, namely: Lake Superior, Lake Michigan, Lake Huron, Lake Saint Clair, Lake Erie, Lake Ontario, or any of the waters connecting any of said lakes, or upon the River Saint Lawrence where the same constitutes the international boundary line.

Third. When committed within or on any lands reserved or acquired for the exclusive use of the United States, and under the exclusive jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

Fourth. On any island, rock, or key, containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States. (R.S. sec. 5339; Sept. 4, 1890, ch. 874, 26 Stat. 424; Mar. 4, 1909, ch. 321, sec. 272, 35 Stat. 1142.)

452. Murder; first degree; second degree.—Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, rape. burglary, or robbery; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree. Any other murder is murder in the second degree. (R.S. sec. 5339; Mar. 4, 1909, ch. 321, sec. 273, 35 Stat. 1143.)

453. Manslaughter; voluntary; involuntary.—Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

Voluntary—Upon a sudden quarrel or heat of passion.

Involuntary—In the commission of an unlawful act not amounting to a felony, or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection. (R.S. sec. 5341; Mar. 4, 1909, ch. 321, sec. 274, 35 Stat. 1143.)

454. Punishment; murder; manslaughter.—Every person guilty of murder in the first degree shall suffer death. Every person guilty of murder in the second degree shall be imprisoned not less than ten years and may be imprisoned for life. Every person guilty of voluntary manslaughter shall be imprisoned not more than ten years. Every person guilty of involuntary manslaughter shall be imprisoned not more than three years, or fined not exceeding $1,000, or both. (R.S. secs. 5339, 5343; Mar. 4, 1909, ch. 321, sec. 275, 35 Stat. 1143.)

455. Felonious assaults; to murder or rape; other felony; with weapons; beating; simple assault.—Whoever shall assault another with intent to commit murder, or rape, shall be imprisoned not more than twenty years. Whoever shall assault another with intent to commit any felony, except murder, or rape, shall be fined not more than $3,000, or imprisoned not more than ten years, or both. Whoever, with intent to do bodily harm, and without just cause or excuse, shall assault another with a dangerous weapon, instrument, or other thing, shall be fined not more than $1,000, or imprisoned not more than five years, or both. Whoever shall unlawfully strike, beat, or wound another, shall be fined not more than $500, or imprisoned not more than six months, or both. Whoever shall unlawfully assault another, shall be fined not more than $300, or imprisoned not more than three months, or both. (R.S. sec. 5346; Mar. 4, 1909, ch. 321, sec. 276, 35 Stat. 1143.)

456. Other attempts at murder.—Whoever shall attempt to commit murder or manslaughter, except as provided in the preceding section, shall be fined not more than $1,000 and imprisoned not more than three years. (R.S. sec. 5342; Mar. 4, 1909, ch. 321, sec. 277, 35 Stat. 1143.)

457. Rape.—Whoever shall commit the crime of rape shall suffer death. (R.S. sec. 5345; Mar. 4, 1909, ch. 321, sec. 278, 35 Stat. 1143.)

458. Carnal knowledge of female under sixteen.—Whoever shall carnally and unlawfully know any female under the age of sixteen years, or shall be accessory to such carnal and unlawful knowledge before the fact, shall, for a first offense, be imprisoned not more than fifteen years, and for a subsequent offense be imprisoned not more than thirty years. (Feb. 9, 1889, ch. 120, 25 Stat. 658; Mar. 4, 1909, ch. 321, sec. 279, 35 Stat. 1143.)

459. Seduction of female passenger on vessel.—Every master, officer, seaman, or other person employed on board of any American vessel, who, during the voyage, under promise of marriage, or by threats, or the exercise of authority, or solicitation, or the making of gifts or presents, seduces and has illicit connection with any female passenger shall be fined not more than $1,000, or imprisoned not more than one year, or both; but subsequent intermarriage of the parties may be pleaded in bar of conviction. (R.S. sec. 5349; Mar. 4, 1909, ch. 321, sec. 280, 35 Stat. 1143.)

460. Disposal of fine; evidence required.—When a person is convicted of a violation of the section last preceding, the court may, in its discretion, direct that the amount of the fine, when paid, be paid for the use of the female seduced, or her child, if she have any; but no conviction shall be had on the testimony of the female seduced, without other evidence, nor unless the indictment is found within one year after the arrival of the vessel on which the offense was committed at the port of its destination. (R.S. secs. 5350, 5351: Mar. 4, 1909, ch. 321, sec. 281, 35 Stat. 1144.)

461. Loss of life by misconduct of officers of vessels; liability of corporation officer.—Every captain, engineer, pilot, or other person employed on any steamboat or vessel, by whose misconduct, negligence, or inattention to his duties on such vessel the life of any person is destroyed, and every owner, charterer, inspector, or other public officer, through whose fraud, neglect, connivance, misconduct, or violation of law the life of any person is destroyed, shall be fined not more than $10,000, or imprisoned not more than ten years, or both. When the owner or charterer of any steamboat or vessel shall be a corporation, any executive officer of such corporation, for the time being actually charged with the control and management of the operation, equipment, or navigation of such steamboat or vessel, who has knowingly and willfully caused or allowed such fraud, neglect, connivance, misconduct, or violation of law, by which the life of any person is destroyed, shall be fined not more than $10,000, or imprisoned not more than ten years, or both. (R.S. sec. 5344; Mar. 3, 1905, ch. 1454, sec. 5, 33 Stat. 1025: Mar. 4, 1909, ch. 321, sec. 282, 35 Stat. 1144.)

462. Maiming.—Whoever, with intent to maim or disfigure, shall cut, bite, or slit, the nose, ear, or lip, or cut out or disable the tongue, or put out or destroy an eye, or cut off or disable a limb or any member of another person; or whoever, with like intent, shall throw or pour upon another person, any scalding hot water, vitriol, or other corrosive acid, or caustic substance whatever, shall be fined not more than $1,000, or imprisoned not more than seven years, or both. (R.S. sec. 5348; Mar. 4, 1909, ch. 321, sec. 283, 35 Stat. 1144.)

463. Robbery.—Whoever, by force and violence, or by putting in fear, shall feloniously take from the person or presence of another anything of value, shall be imprisoned not more than fifteen years. (R.S. sec. 5370; Mar. 4, 1909, ch. 321, sec. 284, 35 Stat. 1144.)

464. Arson of dwelling house.—Whoever shall willfully and maliciously set fire to, burn, or attempt to burn, or by means of a dangerous explosive destroy or attempt to destroy, any dwelling house, or any store, barn, stable, or other building, parcel of a dwelling house, shall be imprisoned not more than twenty years. (R.S. sec. 5385; Mar. 4, 1909, ch. 321, sec. 285, 35 Stat. 1144.)

465. Arson of other buildings.—Whoever shall maliciously set fire to, burn, or attempt to burn, or by any means destroy or injure, or attempt to destroy or injure, any arsenal, armory, magazine, ropewalk, ship house, warehouse, blockhouse, or barrack, or any storehouse, barn, or stable, not parcel of a dwelling house, or any other building not mentioned in the section last preceding, or any vessel built, building, or undergoing repair, or any lighthouse, or beacon, or any machinery, timber, cables, rigging, or other materials or appliances for building, repairing, or fitting out vessels, or any pile of wood, boards, or other lumber, or any military, naval, or victualing stores, arms or other munitions of war, shall be fined not more than $5,000 and imprisoned not more than twenty years. (R.S. secs. 5386, 5387; Mar. 4, 1909, ch. 321, sec. 286, 35 Stat. 1144.)

466. Larceny; determining value of written instrument.—Whoever shall take and carry away, with intent to steal or purloin, any personal property of another, shall be punished as follows: If the property taken is of a value exceeding $50, or is taken from the person of another, by a fine of not more than $10,000, or imprisonment for not more than ten years, or both; in all other cases, by a fine of not more than $1,000, or by imprisonment not more than one year, or both. If the property stolen consists of any evidence of debt, or other written instrument, the amount of money due thereon, or secured to be paid thereby and remaining unsatisfied, or which in any contingency might be collected thereon, or the value of the property the title to which is shown thereby, or the sum which might be recovered in the absence thereof, shall be deemed to be the value of the property stolen. (R.S. sec. 5356; Mar. 4, 1909, ch. 321, sec. 287, 35 Stat. 1144.)

467. Receiving stolen goods; trials.—Whoever shall buy, receive, or conceal, any money, goods, bank notes, or other thing which may be the subject of larceny, which has been feloniously taken, stolen, or embezzled, from any other person, knowing the same to have been so taken, stolen, or embezzled, shall be fined not more than $1,000 and imprisoned not more than three years; and such person may be tried either before or after the conviction of the principal offender. (R.S. sec. 5357; Mar. 4, 1909, ch. 321, sec. 288, 35 Stat. 1145.)

CHAPTER 12.—PIRACY AND OTHER OFFENSES UPON SEAS

CROSS-REFERENCE

For provisions conferring upon the district court in the Canal Zone jurisdiction over offenses under the criminal laws of the United States when committed upon the high seas and the offender is found within or brought into the Canal Zone, see Canal Zone Code, title 7, section 26.

Section 481. Piracy; punishment.—Whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life. (R.S. sec. 5368; Jan. 15, 1897, ch. 29, sec. 2, 29 Stat. 487; Mar. 4, 1909, ch. 321, sec. 290, 35 Stat. 1145.)

482. Maltreatment of crew by officers of vessels; flogging.—Whoever, being the master or officer of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, beats, wounds, or without justifiable cause, imprisons any of the crew of such vessel. or withholds from them suitable food and nourishment, or inflicts upon them any cruel and unusual punishment, shall be fined not more than $1,000, or imprisoned not more than five years, or both. This section shall not be construed to repeal or modify section 712 of Title 46. (R.S. sec. 5347; Mar. 3, 1897, ch. 389, sec. 18, 29 Stat. 691; Mar. 4, 1909, ch. 321, sec. 291, 35 Stat. 1145.)

483. Inciting revolt or mutiny on shipboard.—Whoever, being of the crew of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, endeavors to make a revolt or mutiny on board such vessel, or combines, conspires, or confederates with any other person on board to make such revolt or mutiny, or solicits, incites, or stirs up any other of the crew to disobey or resist the lawful orders of the master or other officer of such vessel, or to refuse or neglect their proper duty on board thereof, or to betray their proper trust, or assembles with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the master or other commanding officer thereof, shall be fined not more than $1,000, or imprisoned not more than five years, or both. (R.S. sec. 5359; Mar. 4, 1909, ch. 321, sec. 292, 35 Stat. 1146.)

484. Revolt or mutiny on shipboard.—Whoever, being of the crew of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, unlawfully and with force, or by fraud, or intimidation, usurps the command of such vessel from the master or other lawful officer in command thereof, or deprives him of authority and command on board, or resists or prevents him in the free and lawful exercise thereof, or transfers such authority and command to another not lawfully entitled thereto, is guilty of a revolt and mutiny, and shall be fined not more than $2,000 and imprisoned not more than ten years. (R.S. sec. 5360; Mar. 4, 1909, ch. 321, sec. 293, 35 Stat. 1146.)

485. **Seamen laying violent hands on commander.**—Whoever, being a seaman, lays violent hands upon his commander, thereby to hinder and prevent his fighting in defense of his vessel or the goods intrusted to him, is a pirate, and shall be imprisoned for life. (R.S. sec. 5369; Jan. 15, 1897, ch. 29, sec. 2, 29 Stat. 487; Mar. 4, 1909, ch. 321, sec. 294, 35 Stat. 1146.)

486. **Abandonment of mariner in foreign port.**—Whoever, being master or commander of a vessel of the United States, while abroad, maliciously and without justifiable cause forces any officer or mariner of such vessel on shore, in order to leave him behind in any foreign port or place, or refuses to bring home again all such officers and mariners of such vessel whom he carried out with him, as are in a condition to return and willing to return, when he is ready to proceed on his homeward voyage, shall be fined not more than $500, or imprisoned not more than six months, or both. (R.S. sec. 5363; Mar. 4, 1909, ch. 321, sec. 295, 35 Stat. 1146.)

487. **Conspiracy to cast away vessel.**—Whoever, on the high seas, or within the United States, willfully and corruptly conspires, combines, and confederates with any other person, such other person being either within or without the United States, to cast away or otherwise destroy any vessel, with intent to injure any person that may have underwritten or may thereafter underwrite any policy of insurance thereon or on goods on board thereof, or with intent to injure any person that has lent or advanced, or may lend or advance, any money on such vessel on bottomry or respondentia; or whoever, within the United States, builds, or fits out, or aids in building or fitting out, any vessel with intent that the same be cast away or destroyed, with the intent hereinbefore mentioned, shall be fined not more than $10,000 and imprisoned not more than ten years. (R.S. sec. 5364; Mar. 4, 1909, ch. 321, sec. 296, 35 Stat. 1146.)

488. **Plundering vessel in distress; obstructing escape of wrecked person; holding false light.**—Whoever plunders, steals, or destroys any money, goods, merchandise, or other effects, from or belonging to any vessel in distress, or wrecked, lost, stranded, or cast away, upon the sea, or upon any reef, shoal, bank, or rocks of the sea, or in any other place within the admiralty and maritime jurisdiction of the United States, shall be fined not more than $5,000 and imprisoned not more than ten years; and whoever willfully obstructs the escape of any person endeavoring to save his life from such vessel, or the wreck thereof; or whoever holds out or shows any false light, or extinguishes any true light, with intent to bring any vessel sailing upon the sea into danger, or distress, or shipwreck, shall be imprisoned not less than ten years and may be imprisoned for life. (R.S. sec. 5358; Mar. 4, 1909, ch. 321, sec. 297, 35 Stat. 1146.)

489. Attacking vessel with intent to plunder.—Whoever, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, by surprise or by open force, maliciously attacks or sets upon any vessel belonging to another, with an intent unlawfully to plunder the same, or to despoil any owner thereof of any moneys, goods, or merchandise laden on board thereof, shall be fined not more than $5,000 and imprisoned not more than ten years. (R.S. sec. 5361; Mar. 4, 1909, ch. 321, sec. 298, 35 Stat. 1147.)

490. Breaking and entering vessel.—Whoever, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular State, breaks or enters any vessel, with intent to commit any felony, or maliciously cuts, spoils, or destroys any cordage, cable, buoys, buoy rope, head fast, or other fast, fixed to the anchor or moorings belonging to any vessel, shall be fined not more than $1,000 and imprisoned not more than five years. (R.S. sec. 5362; Mar. 4, 1909, ch. 321, sec. 299, 35 Stat. 1147.)

491. Destroying vessel at sea; owner.—Whoever, upon the high seas or any other waters within the admiralty and maritime jurisdiction of the United States, willfully and corruptly casts away or otherwise destroys any vessel, of which he is owner, in whole or in part, with intent to prejudice any person that may underwrite any policy of insurance thereon, or any merchant that may have goods thereon, or any other owner of such vessel, shall be imprisoned for life or for any term of years. (R.S. sec. 5365; Aug. 6, 1894, ch. 227, sec. 1, 28 Stat. 233; Mar. 4, 1909, ch. 321, sec. 300, 35 Stat. 1147.)

492. Same; other person.—Whoever, not being an owner, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, willfully and corruptly casts away or otherwise destroys any vessel of the United States to which he belongs, or, willfully, with intent to destroy the same, sets fire to any such vessel, or otherwise attempts the destruction thereof, shall be imprisoned not more than ten years. (R.S. secs. 5366, 5367; Aug. 6, 1894, ch. 227, sec. 2, 28 Stat. 233; Mar. 4, 1909, ch. 321, sec. 301, 35 Stat. 1147.)

493. Robbery on shore by piratical crew.—Whoever, being engaged in any piratical cruise or enterprise, or being of the crew of any piratical vessel, lands from such vessel, and on shore commits robbery, is a pirate, and shall be imprisoned for life. (R.S. sec. 5371; Jan. 15, 1897, ch. 29, sec. 2, 29 Stat. 487; Mar. 4, 1909, ch. 321, sec. 302, 35 Stat. 1147.

494. Arming vessel to cruise against citizens; trials.—Whoever, being a citizen of the United States, without the limits thereof, fits out and arms, or attempts to fit out and arm, or procures to be fitted out and armed, or knowingly aids or is concerned in furnishing, fitting out, or arming, any private vessel of war or privateer, with intent that such vessel shall be employed to cruise or commit hostilities upon the citizens of the United States or their property, or whoever takes the command of or enters on board of any such vessel, for such intent, or who purchases any interest in any such vessel with a view to share in the profits thereof, shall be fined not more than $10,000 and imprisoned not more than ten years. The trial for such offense, if committed without the limits of the United States, shall be in the district in which the offender shall be apprehended or first brought. (R.S. sec. 5324; Mar. 4, 1909, ch. 321, sec. 303, 35 Stat. 1147.)

495. **Piracy under color of foreign commission.**—Whoever, being a citizen of the United States, commits any murder or robbery, or any act of hostility against the United States, or against any citizen thereof, on the high seas, under color of any commission from any foreign prince, or State, or on pretense of authority from any person, is, notwithstanding the pretense of such authority, a pirate, and shall be imprisoned for life. (R.S. sec. 5373; Jan. 15, 1897, ch. 29, sec. 2, 29 Stat. 487; Mar. 4, 1909, ch. 321, sec. 304, 35 Stat. 1147.)

496. **Piracy by aliens.**—Whoever, being a citizen or subject of any foreign State, is found and taken on the sea making war upon the United States, or cruising against the vessels and property thereof, or of the citizens of the same, contrary to the provisions of any treaty existing between the United States and the State of which the offender is a citizen or subject, when by such treaty such acts are declared to be piracy, is guilty of piracy, and shall be imprisoned for life. (R.S. sec. 5374; Jan. 15, 1897, ch. 29, sec. 2, 29 Stat. 487; Mar. 4, 1909, ch. 321, sec. 305, 35 Stat. 1147.)

497. **Running away with or yielding up vessel or cargo.**—Whoever, being a captain or other officer or mariner of a vessel upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, piratically or feloniously runs away with such vessel, or with any goods or merchandise thereof, to the value of $50, or who yields up such vessel voluntarily to any pirate, shall be fined not more than $10,000, or imprisoned not more than ten years, or both. (R.S. sec. 5383; Mar. 4, 1909, ch. 321, sec. 306, 35 Stat. 1148.)

498. **Confederating with pirates; confining master.**—Whoever attempts or endeavors to corrupt any commander, master, officer, or mariner to yield up or run away with any vessel, or with any goods, wares, or merchandise, or to turn pirate or to go over to or confederate with pirates, or in any wise to trade with any pirate, knowing him to be such, or furnishes such pirate with any ammunition, stores, or provisions of any kind, or fits out any vessel knowingly and, with a design to trade with, supply, or correspond with any pirate or robber upon the seas; or whoever consults, combines, confederates, or corresponds with any pirate or robber upon the seas, knowing him to be guilty of any piracy or robbery; or whoever, being a seaman, confines the master of any vessel, shall be fined not more than $1,000 and imprisoned not more than three years. (R.S. sec. 5384; Mar. 4, 1909, ch. 321, sec. 307, 35 Stat. 1148.)

499. **Selling arms or intoxicants in Pacific islands; medicinal use of spirits.**—Whoever, being subject to the authority of the United States, shall give, sell, or otherwise supply any arms, ammunition,

explosive substance, intoxicating liquor, or opium to any aboriginal native of any of the Pacific islands lying within the twentieth parallel of north latitude and the fortieth parallel of south latitude, and the one hundred and twentieth meridian of longitude west and one hundred and twentieth meridian of longitude east of Greenwich, not being in the possession or under the protection of any civilized power, shall be fined not more than $50, or imprisoned not more than three months, or both. In addition to such punishment, all articles of a similar nature to those in respect to which an offense has been committed, found in the possession of the offender, may be declared forfeited. If it shall appear to the court that such opium, wine, or spirits have been given bona fide for medical purposes, it shall be lawful for the court to dismiss the charge. (Feb. 14, 1902, ch. 18, secs. 1, 2, 32 Stat. 33; Mar. 4, 1909, ch. 321, sec. 308, 35 Stat. 1148.)

500. Offenses deemed on high seas.—All offenses against the provisions of the section last preceding, committed on any of said islands or on the waters, rocks, or keys adjacent thereto, shall be deemed committed on the high seas on board a merchant ship or vessel belonging to the United States, and the courts of the United States shall have jurisdiction accordingly. (Feb. 14, 1902, ch. 18, sec. 3, 32 Stat. 33; Mar. 4, 1909, ch. 321, sec. 309, 35 Stat. 1148.)

501. "Vessel of the United States" defined.—The words "vessel of the United States", wherever they occur in this chapter, shall be construed to mean a vessel belonging in whole or in part to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any State, Territory, or District thereof. (Mar. 4, 1909, ch. 321, sec. 310, 35 Stat. 1148.)

502. Injuring vessels engaged in foreign commerce.—Whoever shall set fire to any vessel of foreign registry, or any vessel of American registry entitled to engage in commerce with foreign nations, or to any vessel of the United States as defined in section 501 of this title, or to the cargo of the same, or shall tamper with the motive power or instrumentalities of navigation of such vessel, or shall place bombs or explosives in or upon such vessel, or shall do any other act to or upon such vessel while within the jurisdiction of the United States, or, if such vessel is of American registry, while she is on the high sea, with intent to injure or endanger the safety of the vessel or of her cargo, or of persons on board, whether the injury or danger is so intended to take place within the jurisdiction of the United States, or after the vessel shall have departed therefrom; or whoever shall attempt or conspire to do any such acts with such intent, shall be fined not more than $10,000, or imprisoned not more than twenty years, or both. The term "United States", as used in this section, includes the Canal Zone and all territory and waters, continental or insular, subject to the jurisdiction of the United States. (June 15, 1917, ch. 30, title III, sec. 1, 40 Stat. 221; June 15, 1917, ch. 30, title XIII, sec. 1, 40 Stat. 231.)

CROSS-REFERENCE

Jurisdiction of district court in Canal Zone over offenses under this section, see section 574 of this title.

CHAPTER 14—SAVING PROVISIONS

Section 535. Offenses prior to date of certain sections.—Offenses committed and penalties, forfeitures, or liabilities incurred prior to June 15, 1917, under any law embraced in, or changed, modified, or repealed by, sections 25, 27, 31 to 39, 98, 130 to 133, 288, 343 to 346, 349, 381, 502, 536, 574, and 611 to 633 of this title, sections 213, 220 to 222, 231 to 235, and 238 to 245 of Title 22, and sections 31 to 42 and 191 to 194 of Title 50, may be prosecuted and punished, and suits and proceedings for causes arising or acts done or committed prior to said date may be commenced and prosecuted, in the same manner and with the same effect as if said sections had not been passed. (June 15, 1917, ch. 30, title XIII, sec. 3, 40 Stat. 231.)

536. Partial invalidity of certain sections.—If any clause, sentence, paragraph or part of the sections enumerated in section 535 of this title shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, or paragraph thereof directly involved in the controversy in which such judgment shall have been rendered. (June 15, 1917, ch. 30, title XIII, sec. 4, 40 Stat. 231.)

CHAPTER 15.—GENERAL PROVISIONS (CRIMINAL PROCEDURE)

Section 574. Jurisdiction of offenses under certain sections.—The several courts of first instance in the Philippine Islands and the district court of the Canal Zone shall have jurisdiction of offenses under sections 25, 27, 31 to 38, 98, 130 to 132, 343 to 345, 381, 502, and 611 to 633 of this title and sections 213, 220 to 222, 231 to 234, and 238 to 245 of Title 22, committed within their respective districts, and concurrent jurisdiction with the district courts of the United States of offenses under said sections committed upon the high seas, and of conspiracies to commit such offenses, as defined by section 88 of this title, and the provisions of section 88 of this title, for the purpose of the sections hereinbefore enumerated, are hereby extended to the Philippine Islands and to the Canal Zone. In such cases, the district attorneys of the Philippine Islands and of the Canal Zone shall have the powers and perform the duties provided in the sections hereinbefore enumerated for United States attorneys. (June 15, 1917, ch. 30, title XIII, sec. 2, 40 Stat. 231.)

Cross-Reference

See also section 39 of this title, and section 39 of title 50.

CHAPTER 18.—SEARCH WARRANT

Cross-References

"United States", as used in this chapter, includes the Canal Zone, see section 632 of this title.

Jurisdiction of offenses under this chapter, see section 574 of this title.

Section 611. Authority to issue.—A search warrant authorized by this chapter may be issued by a judge of a United States district court, or by a judge of a State or Territorial court of record, or by a United States commissioner for the district wherein the property sought is located. (June 15, 1917, ch. 30, title XI, sec. 1, 40 Stat. 228.)

612. Grounds for issue.—A search warrant may be issued under this chapter upon either of the following grounds:

1. When the property was stolen or embezzled in violation of a law of the United States; in which case it may be taken on the warrant from any house or other place in which it is concealed, or from the possession of the person by whom it was stolen or embezzled, or from any person in whose possession it may be.

2. When the property was used as the means of committing a felony; in which case it may be taken on the warrant from any house or other place in which it is concealed, or from the possession of the person by whom it was used in the commission of the offense, or from any person in whose possession it may be.

3. When the property, or any paper, is possessed, controlled, or used in violation of section 98 of this title; in which case it may be taken on the warrant from the person violating said section, or from any person in whose possession it may be, or from any house or other place in which it is concealed. (June 15, 1917, ch. 30, title XI, sec. 2, 40 Stat. 228.)

613. Probable cause and affidavit.—A search warrant cannot be isued but upon probable cause, supported by affidavit, naming or describing the person and particularly describing the property and the place to be searched. (June 15, 1917, ch. 30, title XI, sec. 3, 40 Stat. 228.)

614. Examination of applicant and witnesses.—The judge or commissioner must, before issuing the warrant, examine on oath the complainant and any witness he may produce, and require their affidavits or take their depositions in writing and cause them to be subscribed by the parties making them. (June 15, 1917, ch. 30, title XI, sec. 4, 40 Stat. 228.)

615. Affidavits and depositions.—The affidavits or depositions must set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist. (June 15, 1917, ch. 30, title XI, sec. 5, 40 Stat. 228.)

616. Issue and contents of warrant.—If the judge or commissioner is thereupon satisfied of the existence of the grounds of the application or that there is probable cause to believe their existence, he must issue a search warrant, signed by him with his name of office, to a civil officer of the United States duly authorized to enforce or assist in enforcing any law thereof, or to a person so duly authorized by the President of the United States, stating the particular grounds or probable cause for its issue and the names of the persons whose affidavits have been taken in support thereof, and commanding him forthwith to search the person or place named, for the property specified, and to bring it before the judge or commissioner. (June 15, 1917, ch. 30, title XI, sec. 6, 40 Stat. 229.)

617. Service.—A search warrant may in all cases be served by any of the officers mentioned in its direction, but by no other person, except in aid of the officer on his requiring it, he being present and acting in its execution. (June 15, 1917, ch. 30, title XI. sec. 7, 40 Stat. 229.)

618. Same; breaking and entering.—The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance. (June 15, 1917, ch. 30, title XI, sec. 8, 40 Stat. 229.)

619. Same; breaking and entering to liberate detained person aiding in execution of warrant.—He may break open any outer or inner door or window of a house for the purpose of liberating a person who, having entered to aid him in the execution of the warrant, is detained therein, or when necessary for his own liberation. (June 15, 1917, ch. 30, title XI, sec. 9, 40 Stat. 229.)

620. Same; daytime.—The judge or commissioner must insert a direction in the warrant that it be served in the daytime, unless the affidavits are positive that the property is on the person or in the place to be searched, in which case he may insert a direction that it be be served at any time of the day or night. (June 15, 1917, ch. 30, Title XI, sec. 10, 40 Stat. 229.)

621. Time for execution and return of warrant.—A search warrant must be executed and returned to the judge or commissioner who issued it within ten days after its date; after the expiration of this time the warrant, unless executed, is void. (June 15, 1917, ch. 30, title XI, sec. 11, 40 Stat. 229.)

622. Copy of warrant and receipt for property taken to person from whom taken.—When the officer takes property under the warrant, he must give a copy of the warrant together with a receipt for the property taken (specifying it in detail) to the person from whom it was taken by him, or in whose possession it was found; or, in the absence of any person, he must leave it in the place where he found the property. (June 15, 1917, ch. 30, title XI, sec. 12, 40 Stat. 229.)

623. Return; contents.—The officer must forthwith return the warrant to the judge or commissioner and deliver to him a written inventory of the property taken, made publicly or in the presence of the person from whose possession it was taken, and of the applicant for the warrant, if they are present, verified by the affidavit of the officer at the foot of the inventory and taken before the judge or commissioner at the time, to the following effect: "I, R. S., the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant." (June 15, 1917, ch. 30, title XI, sec. 13, 40 Stat. 229.)

624. Copy of inventory for person from whom property taken.—The judge or commissioner must thereupon, if required, deliver a copy of the inventory to the person from whose possession the property was taken and to the applicant for the warrant. (June 15, 1917, ch. 30, title XI, sec. 14, 40 Stat. 229.)

625. Taking testimony.—If the grounds on which the warrant was issued be controverted, the judge or commissioner must proceed to take testimony in relation thereto, and the testimony of each witness must be reduced to writing and subscribed by each witness. (June 15, 1917, ch. 30, title XI, sec. 15, 40 Stat. 229.)

626. Restoration of property taken; retention of custody of property by officer or other disposition.—If it appears that the property or paper taken is not the same as that described in the warrant or that there is no probable cause for believing the existence of the grounds on which the warrant was issued, the judge or commissioner must cause it to be restored to the person from whom it was taken; but if it appears that the property or paper taken is the same as that described in the warrant and that there is probable cause for believing the existence of the grounds on which the warrant was issued, then the judge or commissioner shall order the same retained in the custody of the person seizing it or to be otherwise disposed of according to law. (June 15, 1917, ch. 30, title XI, sec. 16, 40 Stat. 229.)

627. Filing papers with clerk of court having jurisdiction.—The judge or commissioner must annex the affidavits, search warrant, return, inventory, and evidence, and if he has not power to inquire into the offense in respect to which the warrant was issued he must at once file the same, together with a copy of the record of his proceedings, with the clerk of the court having power to so inquire. (June 15, 1917, ch. 30, title XI, sec. 17, 40 Stat. 230.)

628. Obstructing service or execution.—Whoever shall knowingly and willfully obstruct, resist, or oppose any such officer or person in serving or attempting to serve or execute any such search warrant, or shall assault, beat, or wound any such officer or person, knowing him to be an officer or person so authorized, shall be fined not more than $1,000 or imprisoned not more than two years. (June 15, 1917, ch. 30, title XI, sec. 18, 40 Stat. 230.)

629. Perjury and subornation of perjury.—Sections 231 and 232 of this title shall apply to and embrace all persons making oath or affirmation or procuring the same under the provisions of this chapter, and such persons shall be subject to all the pains and penalties of said sections. (June 15, 1917, ch. 30, title XI, sec. 19, 40 Stat. 230.)

630. Maliciously procuring issue.—A person who maliciously and without probable cause procures a search warrant to be issued and executed shall be fined not more than $1,000 or imprisoned not more than one year. (June 15, 1917, ch. 30, title XI, sec. 20, 40 Stat. 230.)

CROSS-REFERENCE

Maliciously procuring issue, see also Canal Zone Code, title 5, section 171.

631. Officer exceeding authority.—An officer who in executing a search warrant willfully exceeds his authority, or exercises it with unnecessary severity, shall be fined not more than $1,000 or imprisoned not more than one year. (June 15, 1917, ch. 30, title XI, sec. 21, 40 Stat. 230.)

632. "United States" defined.—The term "United States", as used in sections 611 to 631 of this title, includes the Canal Zone and all territory and waters, continental or insular, subject to the jurisdiction of the United States. (June 15, 1917, ch. 30, title XIII, sec. 1. 40 Stat. 231.)

633. Existing laws not repealed.—Nothing contained in this chapter shall be held to repeal or impair any existing provisions of law regulating search and the issue of search warrants. (June 15, 1917, ch. 30, title XI, sec. 23, 40 Stat. 230.)

CHAPTER 20.—EXTRADITION

NOTE.—See Canal Zone Code, title 6, section 861, extending to the Canal Zone the extradition laws in force in the United States and rendering the Canal Zone an organized Territory for such purposes.

Respecting the preliminary arrest and detention of fugitives in the Canal Zone, see Canal Zone Code, title 6, sections 862 to 869.

Respecting the extradition of fugitives from the justice of the Republic of Panama who take refuge in the Canal Zone, see Canal Zone Code, title 6, sections 881 to 892.

Section 651. Fugitives from foreign country.—Whenever there is a treaty or convention for extradition between the Government of the United States and any foreign government, any justice of the Supreme Court, circuit judge, district judge, or commissioner, authorized so to do by any of the courts of the United States, or judge of a court of record of general jurisdiction of any State, may, upon complaint made under oath, charging any person found within the limits of any State, District, or Territory, with having committed within the jurisdiction of any such foreign government any of the crimes provided for by such treaty or convention, issue his warrant for the apprehension of the person so charged, that he may be brought before such justice, judge, or commissioner, to the end that the evidence of criminality may be heard and considered. If, on such hearing, he deems the evidence sufficient to sustain the charge under the provisions of the proper treaty or convention, he shall certify the same, together with a copy of all the testimony taken before him, to the Secretary of State, that a warrant may issue upon the requisition of the proper authorities of such foreign government, for the surrender of such person, according to the stipulations of the treaty or convention; and he shall issue his warrant for the commitment of the person so charged to the proper jail, there to remain until such surrender shall be made. (R.S. sec. 5270; June 6, 1900, ch. 793, 31 Stat. 656.)

652. Fugitives from country under control of United States.—Whenever any foreign country or territory, or any part thereof, is occupied by or under the control of the United States, any person who shall violate, or who has violated, the criminal laws in force therein, by the commission of any of the following offenses: Murder and assault with intent to commit murder; counterfeiting or altering money, or uttering or bringing into circulation counterfeit or altered money; counterfeiting certificates or coupons of public indebtedness, bank notes, or other instruments of public credit, and the utterance or circulation of the same; forgery or altering, and uttering what is forged or altered; embezzlement or criminal malversation of the public funds, committed by public officers, employees, or depositaries; larceny or embezzlement of an amount not less than $100 in value; robbery; burglary, defined to be the breaking and entering by nighttime into the house of another person with intent to commit a felony therein; and the act of breaking and entering the house or building of another, whether in the day or night time, with the intent to commit a felony therein; the act of entering, or of breaking and entering the offices of the Government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, insurance or other companies, with the intent to commit a felony therein; perjury or the subornation of perjury; rape; arson; piracy by the law of nations; murder, assault with intent to kill, and manslaughter, committed on the high seas, on board a ship owned by or in control of citizens or residents of such foreign country or territory and not under the flag of the United States, or of some other government; malicious destruction of or attempt to destroy railways, trams, vessels, bridges, dwellings, public edifices, or other buildings, when the act endangers human life, and who shall depart or flee, or who has departed or fled, from justice therein to the United States, any Territory thereof, or to the District of Columbia, shall, when found therein, be liable to arrest and detention by the authorities of the United States, and on the written request or requisition of the military governor or other chief executive officer in control of such foreign country or territory shall be returned and surrendered as hereinafter provided to such authorities for trial under the laws in force in the place where such offense was committed. All the provisions of sections 651, 653 to 655 and 658 to 661 of this title, so far as applicable, shall govern proceedings authorized by this section. Such proceedings shall be had before a judge of the courts of the United States only, who shall hold such person on evidence establishing probable cause that he is guilty of the offense charged. No return or surrender shall be made of any person charged with the commission of any offense of a political nature. If so held such person shall be returned and surrendered to the authorities in control of such foreign country or territory on the order of the Secretary of State of the United States, and such authorities shall secure to such a person a fair and impartial trial. (R.S. sec. 5270; June 6, 1900, ch. 793, 31 Stat. 656.)

653. **Surrender of fugitive.**—It shall be lawful for the Secretary of State, under his hand and seal of office, to order the person so committed to be delivered to such person as shall be authorized, in the name and on behalf of such foreign government, to be tried for the crime of which such person shall be so accused, and such person shall be delivered up accordingly; and it shall be lawful for the person so authorized to hold such person in custody, and to take him to the territory of such foreign government, pursuant to such treaty. If the person so accused shall escape out of any

custody to which he shall be committed, or to which he shall be delivered, it shall be lawful to retake such person in the same manner as any person accused of any crime against the laws in force in that part of the United States to which he shall so escape, may be retaken on an escape. (R.S. sec. 5272.)

654. Time allowed for extradition.—Whenever any person who is committed under this chapter or any treaty, to remain until delivered up in pursuance of a requisition, is not so delivered up and conveyed out of the United States within two calendar months after such commitment, over and above the time actually required to convey the prisoner from the jail to which he was committed, by the readiest way, out of the United States, it shall be lawful for any judge of the United States, or of any State, upon application made to him by or on behalf of the person so committed, and upon proof made to him that reasonable notice of the intention to make such application has been given to the Secretary of State, to order the person so committed to be discharged out of custody, unless sufficient cause is shown to such judge why such discharge ought not to be ordered. (R.S. sec. 5273.)

655. Evidence on hearing.—In all cases where any depositions, warrants, or other papers or copies thereof shall be offered in evidence upon the hearing of any extradition case under this chapter, such depositions, warrants, and other papers, or the copies thereof, shall be received and admitted as evidence on such hearing for all the purposes of such hearing if they shall be properly and legally authenticated so as to entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party shall have escaped, and the certificate of the principal diplomatic or consular officer of the United States resident in such foreign country shall be proof that any deposition, warrant or other paper or copies thereof, so offered, are authenticated in the manner required. (R.S. sec. 5271; Aug. 3, 1882, ch. 378, sec. 5, 22 Stat. 216.)

656. Witnesses for indigent defendants.—On the hearing of any case under a claim of extradition by any foreign government, upon affidavit being filed by the person charged setting forth that there are witnesses whose evidence is material to his defense, that he cannot safely go to trial without them, what he expects to prove by each of them, and that he is not possessed of sufficient means, and is actually unable to pay the fees of such witnesses, the judge or commissioner before whom such claim for extradition is heard may order that such witnesses be subpœnaed; and in such cases the costs incurred by the process, and the fees of witnesses, shall be paid in the same manner that similar fees are paid in the case of witnesses subpœnaed in behalf of the United States. (Aug. 3, 1882, ch. 378, sec. 3, 22 Stat. 215.)

657. Place and character of hearing.—All hearings in cases of extradition under treaty stipulation or convention shall be held on land, publicly, and in a room or office easily accessible to the public. (Aug. 3, 1882, ch. 378, sec 1, 22 Stat. 215.)

658. Continuance of provisions limited.—The provisions of this chapter relating to the surrender of persons who have committed crimes in foreign countries shall continue in force during the existence of any treaty of extradition with any foreign government, and no longer. (R.S. sec. 5274.)

659. Protection of accused.—Whenever any person is delivered by any foreign government to an agent of the United States, for the purpose of being brought within the United States and tried for any crime of which he is duly accused, the President shall have power to take all necessary measures for the transportation and safe-keeping of such accused person, and for his security against lawless violence, until the final conclusion of his trial for the crimes or offenses specified in the warrant of extradition, and until his final discharge from custody or imprisonment for or on account of such crimes or offenses, and for a reasonable time thereafter, and may employ such portion of the land or naval forces of the United States, or of the militia thereof, as may be necessary for the safe-keeping and protection of the accused. (R.S. sec. 5275.)

660. Agent receiving offenders; powers.—Any person duly appointed as agent to receive, in behalf of the United States, the delivery, by a foreign government, of any person accused of crime committed within the jurisdiction of the United States, and to convey him to the place of his trial, shall have all the powers of a marshal of the United States, in the several districts through which it may be necessary for him to pass with such prisoner, so far as such power is requisite for the prisoner's safe-keeping. (R.S. sec. 5276.)

661. Same; penalty for opposing.—Every person who knowingly and willfully obstructs, resists, or opposes such agent in the execution of his duties, or who rescues or attempts to rescue such prisoner, whether in the custody of the agent or of any officer or person to whom his custody has lawfully been committed, shall be punishable by a fine of not more than $1,000, and by imprisonment for not more than one year. (R.S. sec. 5277.)

662. Fugitives from State or Territory.—Whenever the executive authority of any State or Territory demands any person as a fugitive from justice, of the executive authority of any State or Territory to which such person has fled, and produces a copy of an indictment found or an affidavit made before a magistrate of any State or Territory, charging the person demanded with having committed treason, felony, or other crime, certified as authentic by the governor or chief magistrate of the State or Territory from whence the person so charged has fled, it shall be the duty of the executive authority of the State or Territory to which such person has fled to cause him to be arrested and secured, and to cause notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear. If no such agent appears within six months from the time of the arrest, the prisoner may be discharged. All costs or expenses incurred in the apprehending, securing, and transmitting such fugitive to the State or Territory making such demand, shall be paid by such State or Territory. (R.S. sec. 5278.)

663. Penalty for resisting agent.—Any agent so appointed who receives the fugitive into his custody shall be empowered to transport him to the State or Territory from which he has fled. And every person who, by force, sets at liberty or rescues the fugitive from such agent while so transporting him, shall be fined not more than $500 or imprisoned not more than one year. (R.S. sec. 5279.)

666. Fugitives from Philippines.—The provisions of sections 662 and 663 of this title, so far as applicable, shall apply to the Philippine Islands, which, for the purposes of said sections, shall be deemed a Territory within the meaning thereof. (Feb. 9, 1903, ch. 529, sec. 2, 32 Stat. 807.)

667. Fees of commissioners.—The following shall be the fees paid to commissioners in cases of extradition under treaty stipulation or convention between the Government of the United States and any foreign government, and no other fees or compensation shall be allowed to or received by them:

For administering an oath, 10 cents.

For taking an acknowledgment, 25 cents.

For taking and certifying depositions to file, 20 cents for each folio.

For each copy of the same furnished to a party on request, 10 cents for each folio.

For issuing any warrant or writ, and for any other service, the same compensation as is allowed clerks for like services.

For issuing any warrant under the tenth article of the treaty of August 9, 1842, between the United States and the Queen of the United Kingdom of Great Britain and Ireland, against any person charged with any crime or offense as set forth in said article, $2.

For issuing any warrant under the provision of the convention for the surrender of criminals between the United States and the King of the French concluded at Washington November 9, 1843, $2.

For hearing and deciding upon the case of any person charged with any crime or offense, and arrested under the provisions of said treaty or convention or of any treaty or convention, $5 a day for the time necessarily employed (Aug. 3, 1882, ch. 378, sec. 2, 22 Stat. 215; May 28, 1896, ch. 252, sec. 21, 29 Stat. 184.)

NOTE.—Except for the last three sentences this section appears to have been superseded by Act May 28, 1896, ch. 252, sec. 21, 29 Stat. 184, incorporated in sections 529 and 597 of title 28.

668. Payment of fees and costs.—All witness fees and costs of every nature in cases of extradition, including the fees of the commissioner, shall be certified by the judge or commissioner before whom the hearing shall take place to the Secretary of State of the United States, and the same shall be paid out of the appropriations to defray the expenses of the judiciary. The Attorney General shall certify to the Secretary of State the amounts to be paid to the United States on account of said fees and costs in extradition cases by the foreign government requesting the extradition, and the Secretary of State shall cause said amounts to be collected and transmitted to the Attorney General for deposit in the Treasury of the United States. (Aug. 3, 1882, ch. 378, sec. 4, 22 Stat. 216; June 28, 1902, ch. 1301, sec. 1, 32 Stat. 475.)

669. Fugitives found within District of Columbia; issuance of warrant.—Whenever any person shall be found within the District of Columbia charged with any offense committed in any State, Territory, or other possession of the United States, and liable by the Constitution and laws of the United States to be delivered over upon the demand of the governor of such State, Territory, or possession, any judge of the police court of the District of Columbia, may, upon complaint on oath or affirmation of any credible witness, setting forth the offense, that such person is a fugitive from justice, and such other matters as are necessary to bring the case within the provisions of law, issue a warrant to bring the persons so charged before the police court, to answer such complaint. (Apr. 21, 1928, ch. 398, sec. 1, 45 Stat. 440.)

670. Same; bond to be required.—If, upon the examination of the person charged, it shall appear to the judge of the police court that there is reasonable cause to believe that the complaint is true, and that such person may be lawfully demanded of the chief justice of the Supreme Court of the District of Columbia, he shall, if not charged with murder in the first degree, be required to give bond or other obligation, with sufficient sureties, in a reasonable sum, to appear before said judge of the police court at a future date, allowing thirty days to obtain a requisition from the governor of the State, Territory, or possession of the United States from which said person is a fugitiive, he to abide the order of such judge of the police court in the premises. (Apr. 21, 1928, ch. 398, sec. 2, 45 Stat. 441.)

671. Same; commitment if bond not given; forfeiture of bond.—If such person shall not give bond or other obligation, as herein provided, or if he shall be charged with the crime of murder in the first degree, he shall be committed to the District Jail, and there detained until a day fixed by the court, in like manner as if the offense charged had been committed within the District of Columbia; and, if the person so giving bond or other obligation shall fail to appear according to the condition of his bond or obligation, he shall be defaulted, and the bond or other obligation entered into by him shall be forfeited to the United States. (Apr. 21, 1928, ch. 398, sec. 3, 45 Stat. 441.)

672. Same; discharge if not demanded; discharge of bond.—If the person so giving bond or other obligation, or committed, shall appear before the judge of the police court upon the day ordered, he shall be discharged, unless he shall be demanded by some person authorized by the warrant of the governor to receive him, or unless the judge of the police court shall see cause to commit him for a further time, or to require him to give bond or other obligation for his appearance at some other day, and if, when ordered, he shall not give bond or other obligation he shall be committed and detained as before: *Provided*, That whether the person so charged shall give bond or other obligation, be committed or discharged, his delivery to any person authorized by the warrant of the governor shall be a discharge of his bond or obligation, if any. (Apr. 21, 1928, ch. 398, sec. 4, 45 Stat. 441.)

673. Same; notice to officials that fugitive held.—The major and superintendent of the Metropolitan police of the District of Columbia shall give notice to the police official or sheriff of the city or county from which such person is a fugitive that the person is so held in the District of Columbia. (Apr. 21, 1928, ch. 398, sec. 5, 45 Stat. 441.)

674. Same; period of detention.—A person committed as herein provided shall not be detained in jail longer than to allow a reasonable time to the person receiving the notice herein required to apply for and obtain a proper requisition for such person according to the circumstances of the case and the distance of the place where the offense is alleged to have been committed. (Apr. 21, 1928, ch. 398, sec. 6, 45 Stat. 441.)

675. Same; voluntary return; bond for appearance in state, territory or possession.—Nothing herein contained shall prevent the voluntary return, in the custody of a proper official, of a person to the jurisdiction of the State, Territory, or other possession of the United States from which he is a fugitive. And nothing herein contained shall prevent a judge of the police court of the District of Columbia, in his discretion, accepting bond or other obligation for the appearance of a person before the proper official in the State, Territory, or possession of the United States from which he is a fugitive. (Apr. 21, 1928, ch. 398, sec. 7, 45 Stat. 441.)

Note.—Section 676, which was derived from section 8 of the act cited to the text, is omitted as having no applicability in the Canal Zone.

UNITED STATES CODE, TITLE 19

CUSTOMS DUTIES

Section 126. Imports from Canal Zone.—All laws affecting imports of articles, goods, wares, and merchandise from foreign countries shall apply to articles, goods, wares, and merchandise from the Canal Zone, Isthmus of Panama, and seeking entry into any State or Territory of the United States or the District of Columbia. (Mar. 2, 1905, ch. 1311, 33 Stat. 843.)

1482, para. (f). Certification of invoices for merchandise shipped to United States.

Note.—This section authorizes the certification of invoices for merchandise shipped to the United States from the Canal Zone, by " the collector of customs or the person acting as such or by his deputy."

UNITED STATES CODE, TITLE 21

FOOD AND DRUGS

CHAPTER 6.—NARCOTIC DRUGS

Cross-References

The Narcotic Drugs Import and Export Act (the subchapter comprising sections 171 to 185 of this title) not affected by Harrison Anti-Narcotic Act, see U.S. Code, Sup. VII, title 26, section 1051.

For provisions respecting the advancement of funds by special disbursing agents in connection with the enforcement of sections 171 to 185 of this title, see title 31, section 529a.

Section 171. Narcotic drugs; definitions.—When used in sections 172 to 185 of this title—

(a) The term "narcotic drug" means opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine;

(b) The term "United States", when used in a geographical sense, includes the several States and Territories, and the District of Columbia:

(c) The term "board" means the Federal Narcotics Control Board established by section 172 of this title; and

(d) The term "person" means individual, partnership, corporation, or association. (Feb. 9, 1909, ch. 100, sec. 1, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, sec. 1, 42 Stat. 596.)

NOTE.—The Federal Narcotics Control Board established by section 172 of this title, and referred to in paragraph (c) of this section, was abolished by section 282b of title 5, which section transferred the authority, powers, and functions of that board to the Commissioner of Narcotics authorized by section 282 of title 5. With reference generally to the Bureau and Commissioner of Narcotics, see sections 282 to 282c of title 5.

173. Importation of narcotic drugs prohibited; exceptions; crude opium for manufacture of heroin; forfeitures.—It is unlawful to import or bring any narcotic drug into the United States or any territory under its control or jurisdiction; except that such amounts of crude opium and coca leaves as the Commissioner of Narcotics finds to be necessary to provide for medical and legitimate uses only, may be imported and brought into the United States or such territory under such regulations as the Commissioner shall prescribe, but no crude opium may be imported or brought in for the purpose of manufacturing heroin. All narcotic drugs imported under such regulations shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall (1) if smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or (2), if any other narcotic drug, be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 514 and 515 of Title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections. Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under such sections, or which is summarily forfeited as provided in this subdivision, shall be placed in the custody of the Commissioner and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes. (Feb. 9, 1909, ch. 100, sec. 2, 35 Stat. 614; Jan 17. 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, sec. 1, 42 Stat. 596; June 7, 1924, ch. 352, 43 Stat. 657.)

CROSS-REFERENCE

Forfeiture and disposition of narcotics seized, see also U.S. Code, title 26, section 1048.

173a. Same; importation of coca leaves; additional quantity authorized; destruction of cocaine and ecgonine obtained therefrom; duties on imported coca leaves.—In addition to the amount of coca leaves which may be imported under the first paragraph of section 173 of this title, the Commissioner of Narcotics is authorized to permit, in accordance with regulations issued by him, the importation of additional amounts of coca leaves: *Provided*, That after the entry thereof into the United States all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained in such additional amounts of coca leaves, shall be destroyed under the supervision of an authorized representative of the Commissioner of Narcotics. All coca leaves imported under this section shall be subject to the duties which are now or may hereafter be imposed upon such coca leaves when imported. (June 14, 1930, ch. 488, sec. 6, 46 Stat. 587.)

174. Same; penalty; evidence.—If any person fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or assists in so doing or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, such person shall upon conviction be fined not more than $5,000 and imprisoned for not more than ten years. Whenever on trial for a violation of this section the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury. (Feb. 9, 1909, ch. 100, sec. 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, sec. 1, 42 Stat. 596.)

NOTE.—Section 175 of title 21, relative to the deportation of aliens convicted under section 174, is omitted as being without apparent applicability in the Canal Zone.

176. Same; masters of vessels; persons in charge of railroad cars, etc.; liability of.—The master of any vessel or other water craft, or a person in charge of a railroad car or other vehicle, shall not be liable under section 174 of this title, if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, water craft, railroad car, or other vehicle; but the narcotic drug shall be seized, forfeited, and disposed of as provided in the second paragraph of section 173 of this title. (Feb. 9, 1909, ch. 100, sec. 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, sec. 1, 42 Stat. 596.)

177. Administration of law.—Except as otherwise provided by law, the administration of sections 171 to 185 of this title is vested in the Department of the Treasury. (Feb. 9, 1909, ch. 100, sec. 2, 35 Stat. 614; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, sec. 1, 42 Stat. 596.)

CROSS-REFERENCE

For provisions establishing in the Treasury Department a Bureau of Narcotics and a Commissioner of Narcotics, and defining their authority and functions, see U.S. Code, title 5, sections 282 to 282c.

178. Smoking opium; possession in transit; evidence.—Any person subject to the jurisdiction of the United States who shall, either as principal or as accessory, receive or have in his possession, or conceal on board of or transport on any foreign or domestic vessel or other water craft or railroad car or other vehicle destined to or bound from the United States or any possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, water craft, or vehicle of such article, shall not report the same to the principal officer thereof, shall be subject to the penalty provided in section 174 of this title. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury. (Feb. 9, 1909, ch. 100, sec. 4; Jan. 17, 1914, ch. 9, 38 Stat. 275.)

179. Same; masters of vessels; persons in charge of railroad cars, and so forth; liability of; forfeiture.—Any master of a vessel or other water craft or person in charge of a railroad car or other vehicle shall not be liable under section 178 of this title if he shall satisfy the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vessel, and any such article shall be forfeited and shall be destroyed. (Feb. 9, 1909, ch. 100, sec. 4; Jan. 17, 1914, ch. 9, 38 Stat. 275.)

180. Smoking opium not admitted for transportation to another country nor transferred from one vessel to another; other narcotic drugs.—No smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the Commissioner of Narcotics, no other narcotic drug may be so admitted, transferred, or transshipped. (Feb. 9, 1909, ch. 100, sec. 5; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, sec. 2, 42 Stat. 597.)

NOTE.—Section 181 of this title which raises a presumption of illegal importation as to all smoking opium or opium prepared for smoking found "within the United States", is omitted as being without apparent applicability in the Canal Zone.

182. Exportation of narcotic drugs prohibited; exception; requests for copies of laws of foreign governments; rules and regulations by Commissioner.—(a) It shall be unlawful for any person subject to the jurisdiction of the United States Government to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any narcotic drug to any other country. Narcotic drugs (except smoking opium and opium prepared for smoking, the exportation of which is absolutely prohibited) may be exported to a country only which has ratified and become a party to the convention and final protocol between the

United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if (1) such country has instituted and maintains, in conformity with that convention, a system, which the Commissioner of Narcotics deems adequate, of permits or licenses for the control of imports of such narcotic drugs; (2) the narcotic drug is consigned to an authorized permittee; and (3) there is furnished to the Commissioner proof deemed adequate by him, that the narcotic drug is to be applied exclusively to medical and legitimate uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and legitimate uses within such country.

(b) The Secretary of State shall request all foreign governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, advise the Commissioner thereof.

(c) The Commissioner shall make and publish all proper regulations to carry into effect the authority vested in him by this subchapter. (Feb. 9, 1909, ch. 100, sec. 6; Jan. 17, 1914, ch. 9, 38 Stat. 275; May 26, 1922, ch. 202, sec. 2, 42 Stat. 597.)

183. Same; punishment; share of fine to informer.—Any person who exports or causes to be exported any narcotic drugs in violation of the preceding section shall be fined in any sum not exceeding $5,000 nor less than $50 or by imprisonment for any time not exceeding two years, or both. And one-half of any fine recovered from any person or persons convicted of an offense under any section of this subchapter may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought thereunder may be paid to the person or persons giving the information which led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case. No payment for giving information shall be made to any officer or employee of the United States. (Feb. 9, 1909, ch. 100, sec. 7; Jan. 17, 1914, ch. 9, 38 Stat. 277.)

184. Seizure and forfeiture of narcotic drugs found on vessel and not shown on manifest or landed from vessel without permit; penalty against master of vessel; withholding clearance papers; mitigation and remission of forfeitures and penalties.—A narcotic drug that is found upon a vessel arriving at a port of the United States or territory under its control or jurisdiction and is not shown upon the vessel's manifest, or that is landed from any such vessel without a permit first obtained from the collector of customs for that purpose, shall be seized, forfeited, and disposed of in the manner provided in the second paragraph of section 173 of this title, and the master of the vessel shall be liable (1) if the narcotic drug is smoking opium, to a penalty of $25 an ounce, and (2) if any other narcotic drug, to a penalty equal to the value of the narcotic drug.

Such penalty shall constitute a lien upon the vessel which may be enforced by proceedings by libel in rem. Clearance of the vessel from a port of the United States may be withheld until the penalty is paid, or until there is deposited with the collector of customs at the port, a bond in a penal sum double the amount of the penalty, with sureties approved by the collector, and conditioned on the payment of the penalty (or so much thereof as is not remitted by the Secretary of the Treasury) and of all costs and other expenses to the Government in proceedings for the recovery of the penalty, in case the master's application for remission of the penalty is denied in whole or in part by the Secretary of the Treasury.

The provisions of law for the mitigation and remission of penalties and forfeitures incurred for violations of the customs laws, shall apply to penalties incurred for a violation of the provisions of this section. (Feb. 9, 1909, ch. 100, sec. 8; Jan. 17, 1914, ch. 9, 38 Stat. 277; May 26, 1922, ch. 202, sec. 3, 42 Stat. 598.)

185. Citation.—Sections 171 to 184 of this title may be cited as the "Narcotic Drugs Import and Export Act." (Feb. 9, 1909, ch. 100, sec. 9; May 26, 1922, ch. 202, sec. 4, 42 Stat. 598.)

UNITED STATES CODE, TITLE 22

FOREIGN RELATIONS AND INTERCOURSE

Ch.	Sec.	Ch.	Sec.
4. Passports	213	5. Preservation of friendly foreign relations generally	231

CHAPTER 4.—PASSPORTS

Section 213. Application for passport; fees for taking.—Before a passport is issued to any person by or under authority of the United States such person shall subscribe to and submit a written application duly verified by his oath before a person authorized and empowered to administer oaths, which said application shall contain a true recital of each and every matter of fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance of any such passport. Clerks of United States courts, agents of the Department of State, or other Federal officials authorized, or who may be authorized, to take passport applications and administer oaths thereon, shall collect, for all services in connection therewith, a fee of $1, and no more, in lieu of all fees prescribed by any statute of the United States, whether the application is executed singly, in duplicate, or in triplicate. (June 15, 1917, ch. 30, Title IX, sec. 1, 40 Stat. 227.)

Cross-References

Jurisdiction of district court and duties of district attorney in Canal Zone in respect to offenses under sections 220 to 222 of this title, see title 18, section 574.

The term "United States" as used in sections 213 and 220 to 222 of this title, includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States, see Act June 15, 1917, ch. 30, Title XIII, sec. 1, 40 Stat. 231.

220. False statement in application; use of passport obtained by false statement; penalty.—Whoever shall willfully and knowingly make any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another. contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws, or whoever shall willfully and knowingly use or attempt to use, or furnish to another for use, any passport the issue of which was secured in any way by reason of any false statement, shall be fined not more than $2,000 or imprisoned not more than five years or both. (June 15, 1917, ch. 30, Title IX, sec. 2, 40 Stat. 227.)

221. Unlawful use of passport; penalty.—Whoever shall willfully and knowingly use, or attempt to use, any passport issued or designed for the use of another than himself, or whoever shall willfully and knowingly use or attempt to use any passport in violation of the conditions or restrictions therein contained, or of the rules prescribed pursuant to the laws regulating the issuance of passports, which said rules shall be printed on the passport; or whoever shall willfully and knowingly furnish, dispose of, or deliver a passport to any person, for use by another than the person for whose use it was originally issued and designed, shall be fined not more than $2,000 or imprisoned not more than five years, or both. (June 15, 1917, ch. 30, Title IX, sec. 3, 40 Stat. 227.)

222. Forging, alteration, etc., of passport; penalty.—Whoever shall falsely make, forge, counterfeit, mutilate, or alter, or cause or procure to be falsely made, forged, counterfeited, mutilated, or altered any passport or instrument purporting to be a passport, with intent to use the same, or with intent that the same may be used by another; or whoever shall willfully or knowingly use, or attempt to use, or furnish to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same, shall be fined not more than $2,000 or imprisoned not more than five years, or both. (June 15, 1917, ch. 30, Title IX, sec. 4. 40 Stat. 227.)

223. War-time restrictions generally.—When the United States is at war, if the President shall find that the public safety requires that restrictions and prohibitions in addition to those provided otherwise than by this section, and the three following, be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or Congress, be unlawful—

(a) For any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President shall prescribe;

(b) For any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section and the three following;

(c) For any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(d) For any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(e) For any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(f) For any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(g) For any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid. (May 22, 1918, ch. 81, sec. 1, 40 Stat. 559.)

224. Passport required of citizens.—After such proclamation as is provided for by the preceding section has been made and published and while said proclamation is in force, it shall, except as otherwise provided by the President, and subject to such limitations and exceptions as the President may authorize and prescribe, be unlawful for any citizen of the United States to depart from or enter or attempt to depart from or enter the United States unless he bears a valid passport. (May 22, 1918, ch. 81, sec. 2, 40 Stat. 559.)

225. Penalty for violation of war-time restrictions.—Any person who shall willfully violate any of the provisions of the two preceding sections, or of any order or proclamation of the President promulgated, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, imprisoned for not more than twenty years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both; and any vehicle or any vessel, together with its or her appurtenances, equipment, tackle, apparel, and furniture, concerned in any such violation, shall be forfeited to the United States. (May 22, 1918, ch. 81, sec. 3, 40 Stat. 559.)

226. " United States " and " person " as used in war-time restriction defined.—The term " United States " as used in the three preceding sections includes the Canal Zone and all territory and waters, continental or insular, subject to the jurisdiction of the United States.

The word " person " as used herein shall be deemed to mean any individual, partnership, association, company, or other unincorporated body of individuals, or corporation, or body politic. (May 22, 1918, ch. 81, sec. 4, 40 Stat. 559.)

227. Regulations as to alien passport requirements continued.—The provisions of the Act approved May 22, 1918, being the four preceding sections, shall, insofar as they relate to requiring passports and visas from aliens seeking to come to the United States, continue in force and effect until otherwise provided by law. (Mar. 2, 1921, ch. 113, sec. 1, 41 Stat. 1217.)

CHAPTER 5.—PRESERVATION OF FRIENDLY FOREIGN RELATIONS GENERALLY

Section 231. Making false statement to influence conduct of foreign government toward United States.—Whoever, in relation to any dispute or controversy between a foreign government and the United States, shall willfully and knowingly make any untrue statement, either orally or in writing, under oath before any person authorized and empowered to administer oaths, which the affiant has knowledge or reason to believe will, or may be used to influence the measures or conduct of any foreign government, or of any officer or agent of any foreign government, to the injury of the United States, or with a view or intent to influence any measure or action by the Government of the United States, or any branch thereof, to the injury of the United States, shall be fined not more than $5,000 or imprisoned not more than five years, or both. (June 15, 1917, ch. 30, Title VIII, sec. 1, 40 Stat. 226.)

CROSS-REFERENCES

Jurisdiction of district court and duties of district attorney in Canal Zone in respect to offenses under sections 231 to 234 and 238 to 245 of this title, see title 18, section 574.

The term "United States" as used in sections 231 to 234 and 238 to 245 of this title, includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States, see Act June 15, 1917, ch. 30, Title XIII, sec. 1, 40 Stat. 231.

232. Wrongful assumption of character of diplomatic or consular officer.—Whoever within the jurisdiction of the United States shall falsely assume or pretend to be a diplomatic or consular, or other official of a foreign government duly accredited as such to the Government of the United States with intent to defraud such foreign government or any person, and shall take upon himself to act as such, or in such pretended character shall demand or obtain, or attempt to obtain from any person or from said foreign government, or from any officer thereof, any money, paper, document, or other thing of value, shall be fined not more than $5,000, or imprisoned not more than five years, or both. (June 15, 1917, ch. 30, Title VIII, sec. 2, 40 Stat. 226.)

233. Acting as foreign governmental agent without notice to Secretary of State.—Whoever, other than a diplomatic or consular officer or attaché, shall act in the United States as an agent of a foreign government without prior notification to the Secretary of State shall be fined not more than $5,000, or imprisoned not more than five years, or both. (June 15, 1917, ch. 30, Title VIII, sec. 3, 40 Stat. 226.)

234. Conspiracy to injure property of foreign government; indictment.—If two or more persons within the jurisdiction of the United States conspire to injure or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, or other public utility so situated, and if one or more such persons commits an act within the jurisdiction of the United States to effect the object of the conspiracy, each of the parties to the conspiracy shall be fined not more than $5,000, or imprisoned not more than three years, or both. Any indictment or information under this section shall describe the specific property which it was the object of the conspiracy to injure or destroy. (June 15, 1917, ch. 30, Title VIII, sec. 5, 40 Stat. 226.)

235. "Foreign government" defined.—The words "foreign government," as used in the four preceding sections, shall be deemed to include any government, faction, or body of insurgents within a country with which the United States is at peace, which government, faction, or body of insurgents may or may not have been recognized by the United States as a government. (June 15, 1917, ch. 30, Title VIII, sec. 4, 40 Stat. 226.)

238. Seizure of munitions of war, etc., intended for export generally; forfeiture.—Whenever an attempt is made to export or ship from or take out of the United States any arms or munitions of war, or other articles, in violation of law, or whenever there shall be known or probable cause to believe that any such arms or munitions of war, or other articles, are being or are intended to be exported, or shipped from, or taken out of the United States, in violation of law, the several collectors, comptrollers, surveyors, inspectors of customs, and marshals, and deputy marshals of the United States, and every other person duly authorized for the purpose by the President, may seize and detain any articles or munitions of war about to be exported or shipped from, or taken out of the United States, in violation of law, and the vessels or vehicles containing the same, and retain possession thereof until released or disposed of as hereinafter in this chapter directed. If upon due inquiry as hereinafter in this chapter provided the property seized shall appear to have been about to be so unlawfully exported, shipped from, or taken out of the United States, the same shall be forfeited to the United States. (June 15, 1917, ch. 30, Title VI, sec. 1, 40 Stat. 223.)

239. Warrant for detention of property seized.—It shall be the duty of the person making any seizure under sections 238 to 245, inclusive, of this chapter to apply, with due diligence, to the judge of the district court of the United States, or to the judge of the United States district court of the Canal Zone, or to the judge of a court of first instance in the Philippine Islands, having jurisdiction over the place within which the seizure is made, for a warrant to justify the further detention of the property so seized, which warrant shall be granted only on oath or affirmation showing that there is known or probable cause to believe that the property seized is being or is intended to be exported or shipped from or taken out of the United States in violation of law; and if the judge refuses to issue the warrant, or application therefor is not made by the person making the seizure within a reasonable time, not exceeding ten days after the seizure, the property shall forthwith be restored to the owner or person from whom seized. If the judge is satisfied that the seizure was justified under the provisions of sections 238 to 245, inclusive, of this chapter, and issues his warrant accordingly, then the property shall be detained by the person seizing it until the President, who is hereby expressly authorized so to do, orders it to be restored to the owner or claimant, or until it is discharged in due course of law on petition of the claimant, or on trial of condemnation proceedings, as provided in the following sections. (June 15, 1917, ch. 30, Title VI, sec. 2, 40 Stat. 224.)

240. Petition for restoration of property seized.—The owner or claimant of any property seized under sections 238 to 245, inclusive, of this chapter may, at any time before condemnation proceedings have been instituted, as provided in the following sections, file his petition for its restoration in the district court of the United States, or the district court of the Canal Zone, or the court of first instance in the Philippine Islands, having jurisdiction over the place in which the seizure was made, whereupon the court shall advance the cause for hearing and determination with all possible dispatch, and, after causing notice to be given to the United States attorney for the district and to the person making the seizure, shall proceed to hear and decide whether the property seized shall be restored to the petitioner or forfeited to the United States. (June 15, 1917, ch. 30, Title VI, sec. 3, 40 Stat. 224.)

241. Libel and sale of property seized.—Whenever the person making any seizure under sections 238 to 245, inclusive, of this chapter applies for and obtains a warrant for the detention of the property, and (a) upon the hearing and determination of the petition of the owner or claimant restoration is denied, or (b) the owner or claimant fails to file a petition for restoration within thirty days after the seizure, the United States attorney for the district wherein it was seized, upon direction of the Attorney General, shall institute libel proceedings in the United States district court or the district court of the Canal Zone or the court of first instance of the Philippine Islands having jurisdiction over the place wherein the seizure was made, against the property for condemnation; and if, after trial and hearing of the issues involved, the property is condemned, it shall be disposed of by sale, and the proceeds thereof, less the legal costs and charges, paid into the Treasury: *Provided*, That the court shall order any arms and munitions of war so condemned delivered to the War Department of the United States. (June 15, 1917, ch. 30, Title VI, sec. 4, 40 Stat. 224; Mar. 1, 1929, ch. 420, 45 Stat. 1423.)

242. Method of trial; right to jury trial; bond for redelivery.—The proceedings in such summary trials upon the petition of the owner or claimant of the property seized, as well as in the libel cases in the preceding sections provided for, shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in such libel cases, and all such proceedings shall be at the suit of and in the name of the United States: *Provided*, That upon the payment of the costs and legal expenses of both the summary trials and the libel proceedings in the preceding sections provided for, and the execution and delivery of a good and sufficient bond in an amount double the value of the property seized, conditioned that it will not be exported or used or employed contrary to the provisions of sections 238 to 245, inclusive, of this chapter, the court, in its discretion, may direct that it be delivered to the owners thereof or to the claimants thereof. (June 15, 1917, ch. 30, Title VI, sec. 5, 40 Stat. 224.)

243. **General extent of interference with foreign trade.**—Except in those cases in which the exportation of arms and munitions of war or other articles is forbidden by proclamation or otherwise by the President, as provided in section 238 of this chapter, nothing contained in sections 238 to 245, inclusive, of this chapter shall be construed to extend to, or interfere with any trade in such commodities, conducted with any foreign port or place wheresoever, or with any other trade which might have been lawfully carried on before June 15, 1917, under the law of nations, or under the treaties or conventions entered into by the United States, or under the laws thereof. (June 15, 1917, ch. 30, Title VI, sec. 6, 40 Stat. 225.)

244. **Discretion of President in ordering release of property seized.**—Upon payment of the costs and legal expenses incurred in the summary trial provided for in the preceding sections for possession or libel proceedings, the President is hereby authorized, in his discretion, to order the release and restoration to the owner or claimant, as the case may be, of any property seized or condemned under the provisions of sections 238 to 245, inclusive, of this chapter. (June 15, 1917, ch. 30, Title VI, sec. 7, 40 Stat. 225.)

245. **Use of land and naval forces to prevent exportation.**—The President may employ such part of the land or naval forces of the United States as he may deem necessary to carry out the purposes of the preceding seven sections. (June 15, 1917, ch. 30, Title VI, sec. 8, 40 Stat. 225.)

246. **Wearing without authority uniform, etc., of friendly nation; punishment.**—It shall be unlawful for any person, with intent to deceive or mislead, within the United States or Territories, possessions, waters, or places subject to the jurisdiction of the United States, to wear any naval, military, police, or other official uniform, decoration, or regalia of any foreign state, nation, or government with which the United States is at peace, or any uniform, decoration, or regalia so nearly resembling the same as to be calculated to deceive, unless such wearing thereof be authorized by such state, nation, or government.

Any person who violates the provisions of this section shall upon conviction be punished by a fine not exceeding $300 or imprisonment for not exceeding six months, or by both such fine and imprisonment. (July 8, 1918, ch. 138, 40 Stat. 821.)

UNITED STATES CODE, TITLE 24

HOSPITALS, ASYLUMS, AND CEMETERIES

Section 196. Transfer of American citizens adjudged insane in Canal Zone.

NOTE.—This section is shown in the text of the Canal Zone Code as section 1763 of title 4.

UNITED STATES CODE, TITLE 26

INTERNAL REVENUE

Ch.	Sec.
12. Narcotics (Subchapter A, Opium and Coca Leaves)	1040
19. Occupational Taxes (Subchapter A, Special Provisions; Part V, Narcotics)	1383

NOTE.—The Harrison Anti-Narcotic Act, hereinafter shown, is comprised within subchapter A of chapter 12, and part V of subchapter A of chapter 19, and appears in the form in which it was recodified and renumbered by Supplement VII to the United States Code.

The term "Commissioner" as used in the sections hereinafter shown means the Commissioner of Internal Revenue. For provisions relative to the transfer and delegation of administrative rights, privileges, powers and duties in respect to narcotic drugs, see sections 1063 and 1064 of this title, and sections 282 to 282c of title 5.

Respecting the application of the sections hereinafter shown to the Canal Zone and their administration therein, see sections 1053 and 1054 of this title.

For provisions respecting the advancement of funds by special disbursing agents in connection with the enforcement of the Harrison Anti-Narcotic Act, see title 31, section 529a.

For provisions of the Narcotic Drugs Import and Export Act, see title 21, sections 171 to 185.

CHAPTER 12.—NARCOTICS (SUBCHAPTER A, OPIUM AND COCA LEAVES)

Section 1040. Tax—

(a) *Rate.*—There shall be levied, assessed, collected, and paid upon opium, coca leaves, any compound, salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, an internal revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce. The tax imposed by this subsection shall be in addition to any import duty imposed on the aforesaid drugs. (Dec. 17, 1914, ch. 1, sec. 1 38 Stat 785 as amended by Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 97.)

(b) *By whom paid.*—The tax imposed by subsection (a) shall be paid by the importer, manufacturer, producer, or compounder. (Dec. 17, 1914, ch. 1, sec. 1 38 Stat. 785 as amended by Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 97.)

(c) *How paid*—(*1*) *Stamps.*—The tax imposed by subsection (a) shall be represented by appropriate stamps, to be provided by the Commissioner, with the approval of the Secretary. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 97.)

(2) *Assessment.*—For assessment in case of omitted taxes payable by stamp, see section 1431 and section 1530.

(3) *Other methods.*—Whether or not the method of collecting any tax imposed by subsection (a) or section 1383 is specifically provided therein, any such tax may, under regulations prescribed by the Commissioner, with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of subchapters A, B, and C of chapter 7, insofar as applicable, shall apply to the collection of any tax which the Com-

missioner determines or prescribes shall be collected in such manner. (Feb. 26, 1926, ch. 27, sec. 1119, 44 Stat. 120.)

(d) *Registration and special tax.*—For requirements on importers, manufacturers, producers, dealers, and practitioners to register and pay special tax, see part V of subchapter A of chapter 19.

1041. Exemptions—

(a) *Preparations of limited narcotic content.*—The provisions of this subchapter and part V of subchapter A of chapter 19 shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use, only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: *Provided*, That such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this subchapter and said part V: *Provided further*, That any manufacturer, producer, compounder, or vendor (including dispensing physicians) of the preparations and remedies mentioned in this section shall keep a record of all sales, exchanges, or gifts of such preparations and remedies in such manner as the Commissioner, with the approval of the Secretary, shall direct. Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officers named in section 1046, and every such person so possessing or disposing of such preparations and remedies shall register as required in section 1384 and, if he is not paying a tax under section 1383, he shall pay a special tax of $1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the collector of the district in which he carries on such occupation as provided in part V of subchapter A of chapter 19. (Dec. 17, 1914, ch. 1, sec. 6, 38 Stat. 789 as amended by Feb. 24, 1919, ch. 18, sec. 1007, 40 Stat. 1132; Feb. 26, 1926, ch. 27, sec. 704, 44 Stat. 98.)

(b) *Decocainized coca leaves.*—The provisions of this subchapter and part V of subchapter A of chapter 19 shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine. (Dec. 17, 1914, ch. 1, sec. 6, 38 Stat. 789 as amended by Feb. 24, 1919, ch. 18, sec. 1007, 40 Stat. 1132; Feb. 26, 1926, ch. 27, sec. 704, 44 Stat. 98.)

(c) *Government and State officials*—(1) *Stamping drugs.*—Officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the businesses described in part V of subchapter A of chapter 19, shall not be required to stamp the drugs mentioned in section 1040 (a), as hereinafter prescribed, but their right to this exemption shall be evidenced in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 97.)

(2) *Registration and payment of tax.*—For exemption of officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments from the requirements as to registration and the payment of special taxes, see subsection (b) of section 1385.

1042. Stamps—

(a) *Affixing.*—The stamps provided in subsection (c) (1) of section 1040 shall be so affixed to the bottle or other container as to securely seal the stopper, covering, or wrapper thereof. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 98.)

(b) *Other laws applicable.*—All the provisions of law relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps provided for in the internal revenue laws shall, insofar as necessary, be extended and made to apply to the stamps provided in subsection (c) (1) of section 1040. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 98.)

(c) *Cross reference.*—For general provisions relating to stamps, see part I of subchapter A of chapter 20.

1043. Packages—

(a) *General requirement.*—It shall be unlawful for any person to purchase, sell, dispense, or distribute any of the drugs mentioned in section 1040 (a) except in the original stamped package or from the original stamped package; and the absence of appropriate tax-paid stamps from any of the aforesaid drugs shall be prima facie evidence of a violation of this subsection by the person in whose possession same may be found; and the possession of any original stamped package containing any of the aforesaid drugs by any person who has not registered and paid special taxes as required by sections 1383 and 1384 shall be prima facie evidence of liability to such special tax. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 97.)

(b) *Exceptions in case of registered practitioners.*—The provisions of subsection (a) shall not apply—

(1) *Prescriptions.*—To any person having in his or her possession any of the drugs mentioned in section 1040 (a) which have been obtained from a registered dealer in pursuance of a prescription, written for legitimate medical uses, issued by a physician, dentist, veterinary surgeon, or other practitioner registered under section 1384; and where the bottle or other container in which such drug may be put up by the dealer upon said prescription bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person writing said prescription; or

(2) *Dispensations direct to patients.*—To the dispensing, or administration, or giving away of any of the aforesaid drugs to a

patient by a registered physician, dentist, veterinary surgeon, or other practitioner in the course of his professional practice, and where said drugs are dispensed or administered to the patient for legitimate medical purposes, and the record kept as required by this subchapter of the drugs so dispensed, administered, distributed, or given away. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 97.)

1044. Order forms—

(a) *General requirement.*—It shall be unlawful for any person to sell, barter, exchange, or give away any of the drugs mentioned in section 1040 (a) except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given, on a form to be issued in blank for that purpose by the Commissioner. (Dec. 17, 1914, ch. 1, sec. 2, 38 Stat. 786.)

(b) *Exception in case of Virgin Islands.*—The President is authorized and directed to issue such Executive orders as will permit those persons in the Virgin Islands of the United States lawfully entitled to sell, deal in, dispense, prescribe, and distribute the drugs mentioned in section 1040 (a), to obtain said drugs from persons registered under section 1384 within the continental United States for legitimate medical purposes, without regard to the order forms described in this section. (Dec. 17, 1914, ch. 1, sec. 2, 38 Stat. 786 as amended by Jan. 22, 1927, ch. 51, 44 Stat. 1023.)

(c) *Other exceptions.*—Nothing contained in this chapter shall apply—

(1) *Use of drugs in professional practice.*—To the dispensing or distribution of any of the drugs mentioned in section 1040 (a) to a patient by a physician, dentist, or veterinary surgeon registered under section 1384 in the course of his professional practice only: *Provided*, That such physician, dentist, or veterinary surgeon shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist, or veterinary surgeon shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in section 1046.

(2) *Prescriptions.*—To the sale, dispensing, or distribution of any of the drugs mentioned in section 1040 (a) by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, or veterinary surgeon registered under section 1384: *Provided, however*, That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, or veterinary surgeon who shall have issued the same: *And provided further*, That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials mentioned in section 1046.

(3) *Exportation.*—To the sale, exportation, shipment, or delivery of any of the drugs mentioned in section 1040 (a) by any person

within the United States or any Territory or the District of Columbia or any of the insular possessions of the United States to any person in any foreign country, regulating their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by said country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

(4) *Government and State officials.*—To the sale, barter, exchange, or giving away of any of the drugs mentioned in section 1040 (a) to any officer of the United States Government or of any State, Territorial, district, county, or municipal or insular government lawfully engaged in making purchases thereof for the various departments of the Army and Navy, the Public Health Service, and for Government, State, Territorial, district, county, or municipal or insular hospitals or prisons. (Dec. 17, 1914, ch. 1, sec. 2, 38 Stat. 786.)

(d) *Preservation.*—Every person who shall accept any order required under subsection (a), and in pursuance thereof shall sell, barter, exchange, or give away any of the drugs mentioned in section 1040 (a), shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officials named in section 1046. (Dec. 17, 1914, ch. 1, sec. 2, 38 Stat. 786.)

(e) *Duplicates.*—Every person who shall give an order as provided in this section to any other person for any of the drugs mentioned in section 1040 (a) shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued in blank for that purpose by the Commissioner, and in case of the acceptance of such order, shall preserve such duplicate for said period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials mentioned in section 1046. (Dec. 17, 1914, ch. 1, sec. 2, 38 Stat. 786.)

(f) *Supply.*—The Commissioner, with the approval of the Secretary, shall cause suitable forms to be prepared for the purposes above mentioned, and shall cause the same to be distributed to collectors for sale by them to those persons who shall have registered and paid the special tax as required by sections 1384 and 1383 in their districts, respectively; and no collector shall sell any of such forms to any persons other than a person who has registered and paid the special tax as required by said sections in his district. The price at which such forms shall be sold by said collectors shall be fixed by the Commissioner, with the approval of the Secretary, but shall not exceed the sum of $1 per hundred. Every collector shall keep an account of the number of such forms sold by him, the names of the purchasers, and the number of such forms sold to each of such purchasers. Whenever any collector shall sell any of such forms, he shall cause the name of the purchaser thereof to be plainly written or stamped thereon before delivering the same; and no person other than such purchaser shall use any of said forms bearing the name of such purchaser for the purpose of procuring any of the aforesaid drugs, or furnish any of the forms bearing the name of such purchaser to any person with intent thereby to procure the shipment or delivery of any of the aforesaid drugs. (Dec. 17, 1914, ch. 1, sec. 2, 38 Stat. 787.)

(g) *Unlawful use.*—It shall be unlawful for any person to obtain by means of said order forms any of the aforesaid drugs for any purpose other than the use, sale, or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate practice of his profession. (Dec. 17. 1914, ch. 1, sec. 2. 38 Stat. 787.)

(h) *Issuance in Puerto Rico and the Philippine Islands.*—For issuance of order forms in Puerto Rico and the Philippine Islands, see subsection (a) of section 1054.

1045. Records, statements, and returns—

(a) *General requirements.*—Every person liable to any tax imposed by this subchapter or section 1383, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe. (Feb. 26, 1926, ch. 27, sec. 1102 (a), 44 Stat. 112.)

(b) *Books and monthly returns of importers, manufacturers, and wholesale dealers.*—Importers, manufacturers, and wholesale dealers shall keep such books and records and render such monthly returns in relation to the transactions in the aforesaid drugs as the Commissioner, with the approval of the Secretary, may by regulations require. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 98.)

(c) *Returns by registrants of drugs received.*—Any person who shall be registered in any internal revenue district under the provisions of section 1384 shall, whenever required so to do by the collector of the district, render to the said collector a true and correct statement or return, verified by affidavit, setting forth the quantity of the aforesaid drugs received by him in said internal revenue district during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine; the names of the persons from whom the said drugs were received; the quantity in each instance received from each of such persons; and the date when received. (Dec. 17, 1914, ch. 1, sec. 3, 38 Stat. 787.)

1046. Inspection and copies of returns, duplicate order forms, and prescriptions.—The duplicate order forms and the prescriptions required to be preserved under the provisions of section 1044 (c) (2), and the statements or returns filed in the office of the collector of the district, under the provisions of section 1045 (c), shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose; and such officials of any State or Territory, or of any organized municipality therein, or of the District of Columbia, or of any insular possession of the United States, as shall be charged with the enforcement of any law or municipal ordinance regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs. Each collector shall be authorized to furnish, upon written request, certified copies of any of the said statements or returns filed in his office to any of such officials of any State or Territory or organized municipality therein, or the District of Columbia, or any insular possession of the United States, as shall be entitled to inspect the said statements or returns filed in the office of the said collector, upon the payment of a fee of $1 for each one hundred words or fraction thereof in the copy or copies so requested. (Dec. 17, 1914, ch. 1, sec. 5, 38 Stat. 788.)

1047. Penalties—

(a) *Unlawful disclosure of information on returns or order forms.*—Any person who shall disclose the information contained in the statements or returns required under subsection (c) of section 1045 or in the duplicate order forms required in subsection (e) of section 1044, except as expressly provided in section 1046, and except for the purpose of enforcing the provisions of this subchapter or part V of subchapter A of chapter 19, or for the purpose of enforcing any law of any State or Territory or the District of Columbia, or any insular possession of the United States, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of the drugs mentioned in section 1040 (a), shall, on conviction, be fined or imprisoned as provided by subsection (b) (1). (Dec. 17, 1914, ch. 1, sec. 5, 38 Stat. 788.)

(b) *Violations in general.*—(1) Any person who violates or fails to comply with any of the requirements of this subchapter or part V of subchapter A of chapter 19, shall, on conviction, be fined not more than $2,000 or be imprisoned not more than five years, or both, in the discretion of the court. (Dec. 17, 1914, ch. 1, sec. 9, 38 Stat. 789.)

(2) Any person required under this subchapter or section 1383 to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this subchapter or section 1383 who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(3) Any person required under this subchapter or section 1383 of chapter 19 to collect, account for, and pay over any tax imposed by this subchapter or said section 1383 who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this subchapter or section 1383 or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(4) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by this subchapter or section 1383 who willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed

and collected. No penalty shall be assessed under this paragraph for any offense for which a penalty may be assessed under authority of section 1512 (e).

(5) The term "person" as used in paragraphs (2), (3), and (4) includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs. (Feb. 26, 1926, ch. 27, sec. 1114 (a), (b), (d), and (f), 44 Stat. 116, 117.)

For definition of "person" as used generally in this chapter, see subsection (a) of section 1391.

(c) *Cross reference.*—For general penalty provisions, see part III of subchapter A of chapter 20 and section 1693 of chapter 25.

1048. Forfeitures—

(a) *Unstamped packages.*—All unstamped packages of the drugs mentioned in section 1040 (a) found in the possession of any person, except as provided in this subchapter, shall be subject to seizure and forfeiture, and all the provisions of internal revenue laws relating to searches, seizures, and forfeiture of unstamped articles shall be extended to and made to apply to the articles taxed under this subchapter and the persons upon whom these taxes are imposed. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 98.)

(b) *Seized opium—Confiscation and disposal.*—All opium, its salts, derivatives, and compounds, and coca leaves, salts, derivatives, and compounds thereof, seized by the United States Government from any person or persons charged with any violation of this chapter or part V of subchapter A of chapter 19, or the Act of Feb. 9, 1909, ch. 100, 35 Stat. 614 as amended by the act of Jan. 17, 1914, ch. 9, 38 Stat. 275 (U.S.C., Title 21, secs. 171–184), shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States; and the Secretary shall be authorized to deliver for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulation as may be prescribed by the Commissioner, with the approval of the Secretary, any of the drugs so seized, confiscated, and forfeited to the United States. The provisions of this paragraph shall also apply to any of the aforesaid drugs seized or coming into the possession of the United States in the enforcement of this chapter, part V of subchapter A of chapter 19, or any of the above-mentioned acts where the owner or owners thereof are unknown. None of the aforesaid drugs coming into possession of the United States under the operation of said chapter, part, or acts, or the provisions of this paragraph, shall be destroyed without certification by a committee appointed by the Commissioner, with the approval of the Secretary, that they are of no value for medical or scientific purposes. (Feb. 26, 1926, ch. 27, sec. 705, 44 Stat. 99.)

(c) *Cross-reference.*—For general forfeiture provisions, see part III of subchapter A of chapter 20 and section 1693 of chapter 25.

1049. Regulations.—The Commissioner, with the approval of the Secretary, shall make, prescribe, and publish all needful rules and regulations for carrying the provisions of this subchapter and part V of subchapter A of chapter 19 into effect. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785; Feb. 26, 1926, ch. 27, sec. 703, 1101, 44 Stat. 98, 111.)

1050. Appointment of personnel.—The Commissioner, with the approval of the Secretary, is authorized to appoint such agents, deputy collectors, inspectors, chemists, assistant chemists, clerks, and messengers in the field and in the Bureau of Internal Revenue in the District of Columbia as may be necessary to enforce the provisions of this subchapter and part V of subchapter A of chapter 19. (Dec. 17, 1914, ch. 1 sec. 10, 38 Stat. 789.)

1051. Laws unaffected.—Nothing contained in this subchapter or part V of subchapter A of chapter 19 shall be construed to impair, alter, amend, or repeal any of the provsions of the Act of Congress approved June thirtieth, nineteen hundred and six, entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded, or poisonous, or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," ch. 3915, 34 Stat. 768 (U.S.C., Title 21; secs. 1–15), and any amendment thereof, or of the Act approved February ninth, nineteen hundred and nine, entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes," ch. 100, 35 Stat. 614 (U.S.C., Title 21; secs. 171–185), and any amendment thereof. (Dec. 17, 1914, ch. 1, sec. 12, 38 Stat. 790.)

1052. Other laws applicable.—All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this subchapter and sections 1383, 1384, 1385 and subsection (a) of section 1387 of chapter 19. (Feb. 26, 1926, ch. 27, sec. 1100, 44 Stat. 111.)

For provisions making applicable the internal revenue laws relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps, see subsection (b) of section 1042.

1053. Territorial extent of law.—The provisions of this subchapter and part V of subchapter A of chapter 19 shall apply to the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the insular possessions of the United States, and the Canal Zone. (Dec. 17, 1914, ch. 1, sec. 2, 38 Stat. 787.)

1054. Administration in insular possessions and Canal Zone—

(a) *Puerto Rico and the Philippine Islands.*—In Puerto Rico and the Philippine Islands the administration of this subchapter and part V of subchapter A of chapter 19, the collection of the special tax imposed by section 1382 of chapter 19, and the issuance of the order forms specified in section 1044 shall be performed by the appropriate internal revenue officers of those governments, and all revenues collected thereunder in Puerto Rico and the Philippine Islands shall accrue intact to the general governments thereof, respectively. The courts of first instance in the Philippine Islands shall possess and exercise jurisdiction in all cases arising in said islands under this subchapter and said part V of chapter 19. (Dec. 17, 1914, ch. 1, sec. 2, 38 Stat. 787; May 17, 1932, ch. 190, 47 Stat. 158.)

(b) *Canal Zone.*—The President is authorized and directed to issue such Executive orders as will carry into effect in the Canal Zone the intent and purpose of this subchapter and part V of subchapter A of chapter 19 by providing for the registration and the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations. (Dec. 17, 1914, ch. 1, sec. 2, 38 Stat. 787.)

(c) *Virgin Islands.*—For authority of the President to exempt persons in the Virgin Islands from the order form requirements, see subsection (b) of section 1044.

1055. Definitions.—For definitions of the following, see the subsections of section 1391 indicated below:

(a) *Person.*—Subsection (a).

(b) *Importer, manufacturer, or producer.*—Subsection (b).

(c) *Wholesale dealer.*—Subsection (c).

(d) *Retail dealer.*—Subsection (d).

CHAPTER 19.—OCCUPATIONAL TAXES (SUBCHAPTER A, SPECIAL PROVISIONS; PART V, NARCOTICS)

Section 1383. Tax.—On or before July 1 of each year, every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, shall pay the special taxes hereinafter provided. Every person upon first engaging in any of such activities shall immediately pay the proportionate part of the tax for the period ending on the following June 30. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785, as amended by Feb. 24, 1919, ch. 18, sec. 1006, 40 Stat. 1130; Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 96.)

(a) *Importers, manufacturers, or producers.*—Importers, manufacturers, producers, or compounders, $24 a year;

(b) *Wholesale dealers.*—Wholesale dealers, $12 a year;

(c) *Retail dealers.*—Retail dealers, $3 a year;

(d) *Physicians, dentists, veterinary surgeons, and other practitioners.*—Physicians, dentists, veterinary surgeons, and other practitioners, lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, $1 each year or fraction thereof, during which they engage in any of such activities. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785, as amended by May 29, 1928, ch. 852, sec. 432, 45 Stat. 867.)

(e) *Persons not otherwise taxed.*—For a tax of $1 a year on persons not otherwise taxed, dispensing preparations and remedies of limited narcotic content, see section 1041 (a).

(f) *Persons in Canal Zone.*—For authority of the President to issue Executive orders providing for the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, distribute, sell, or give away opium or coca leaves, their salts, derivatives, or preparations, see section 1054 (b).

1384. Registration.—On or before July 1 of each year every person who engages in any of the activities enumerated in section 1383 shall register with the collector of the district his name or style, place of business, and place or places where such business is to be carried on; and every person upon first engaging in any such activities shall immediately make like registration. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 24, 1919, ch. 18, sec. 1006, 40 Stat. 1130; Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 96.)

1385. Exemption from tax and registration—

(a) *Employees.*—No employee of any person who has registered and paid special tax as required in this part acting within the scope of his employment, shall be required to register and pay special tax provided by sections 1383 and 1384.

(b) *Government and State officials.*—Officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the business herein described, shall not be required to register or pay special tax, but their right to this exemption shall be evidenced in such manner as the commissioner, with the approval of the Secretary, may, by regulations, prescribe. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 24, 1919, ch. 18, sec. 1006, 40 Stat. 1130; Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 97.)

For authority of the President to issue Executive orders providing for the registration of all persons in the Canal Zone who produce, import, compound, deal in, dispense, distribute, sell, or give away opium or coca leaves, their salts, derivatives, or preparations, see section 1054 (b).

1386. Possession of stamped packages as evidence of tax liability.—For possession of original stamped packages as prima facie evidence of liability to special tax, see section 1043 (a).

1387. Unlawful acts in case of failure to register and pay special tax—

(a) *Trafficking.*—It shall be unlawful for any person required to register under the provisions of this part or section 1041 (a) to import, manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away any of the aforesaid drugs without having registered and paid the special tax as imposed by this part, or section 1041 (a). (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 785 as amended by Feb. 24, 1919, ch. 18, sec. 1006, 40 Stat. 1130; Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 97.)

(b) *Transportation.*—It shall be unlawful for any person who shall not have registered and paid the special tax as required by section 1383 and 1384 to send, ship, carry, or deliver any of the aforesaid drugs from any State or Territory or the District of Columbia, or any insular possession of the United States, to any person in any other State or Territory or the District of Columbia or any insular possession of the United States: *Provided*, That nothing contained in this section shall apply to common carriers engaged in transporting the aforesaid drugs, or to any employee acting within the scope of his employment, of any person who shall have registered and paid the special tax as required by sections 1383 and 1384, or to any person who shall deliver any such drug which has been prescribed or dispensed by a physician, dentist, or veterinarian required to register under the terms of this part or section 1041 (a) who has been employed to prescribe for the particular patient receiving such drug, or to any United States, State, county, municipal, district, Territorial, or insular officer or official acting within the scope of his official duties. (Dec. 17, 1914, ch. 1, sec. 4, 38 Stat. 788.)

(c) *Possession.*—It shall be unlawful for any person who has not registered and paid the special tax as provided for by this part or section 1041 (a), to have in his possession or under his control any of the aforesaid drugs; and such possession or control shall be presumptive evidence of a violation of this subsection and subsection (a), and also a violation of the provisions of sections 1383 and 1384: *Provided*, That this subsection shall not apply to any employee of a registered person, or to a nurse under the supervision of a physician, dentist, or veterinary surgeon registered under this part or section 1041 (a), having such possession or control by virtue of his employment or occupation and not on his own account; or to the possession of any of the aforesaid drugs which has or have been prescribed in good faith by a physician, dentist, or veterinary surgeon registered under this part or section 1041 (a); or to any United States, State, county, municipal, district, Territorial, or insular officer or official who has possession of any said drugs, by reason of his official duties, or to a warehouseman holding possession for a person registered and who has paid the taxes under this part and chapter 12; or to common carriers engaged in transporting such drugs: *Provided further*, That it shall not be necessary to negative any of the aforesaid exemptions in any complaint, information, indictment, or other writ or proceedings laid or brought under this part or chapter 12; and the burden of proof of any such exemption shall be upon the defendant. (Dec. 17, 1914, ch. 1, sec. 8, 38 Stat. 789.)

1388. Penalties.—For penalties for violating or failing to comply with any of the provisions of this part, see section 1047 (b) (1).

1389. List of special taxpayers.—Collectors are authorized to furnish, upon written request, to any person, a certified copy of the names of any or all persons who may be listed in their respective collection districts as special taxpayers under the provisions of this part or section 1041 (a), upon payment of a fee of $1 for each 100 names or fraction thereof in the copy so requested. (Dec. 17, 1914, ch. 1, sec. 5, 38 Stat. 788.)

1390. Other laws applicable.—(a) All provisions of law relating to special taxes, as far as necessary shall be extended and made applicable to the special tax imposed by this part. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 786, as amended by Feb. 24, 1919, ch. 18, sec. 1006, 40 Stat 1130; Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 97.)

(b) All laws relating to the assessment, collection, remission, and refund of internal revenue taxes, including section 1661, so far as applicable to and not inconsistent with the provisions of this part and subchapter A of chapter 12 shall be extended and made applicable to the special taxes imposed by this part and section 1041 (a). (Dec. 17, 1914, ch. 1, sec. 7, 38 Stat. 789.)

1391. Definitions—

(a) *Person.*—The word " person " as used in this part and chapter 12 shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person.

(b) *Importer, manufacturer, or producer.*—Every person who imports, manufactures, compounds, or otherwise produces for sale or distribution any of the drugs mentioned in section 1383 shall be deemed to be an importer, manufacturer, or producer.

(c) *Wholesale dealer.*—Every person who sells, or offers for sale, any of said drugs in the original stamped packages as provided in section 1043 (a) shall be deemed a wholesale dealer.

(d) *Retail dealer.*—Every person who sells or dispenses from original stamped packages as provided in section 1043 (a) shall be deemed a retail dealer: *Provided*, That the office, or if none, the residence, of any person shall be considered for the purposes of this part and chapter 12 his place of business. (Dec. 17, 1914, ch. 1, sec. 1, 38 Stat. 786 as amended by Feb. 24, 1919, ch. 18, sec. 1006, 40 Stat. 1130; Feb. 26, 1926, ch. 27, sec. 703, 44 Stat. 96, 97.)

UNITED STATES CODE, TITLE 27

INTOXICATING LIQUORS

Section 122. Shipments into States having dry laws; prohibition.—The shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited. (Mar. 1, 1913, ch. 90, 37 Stat. 699.)

NOTE.—The Act cited to the text was entitled "An Act divesting intoxicating liquors of their interstate character in certain cases ", and is known as the " Webb-Kenyon Act."

See also the twenty-first amendment to the Constitution of the United States, repealing the eighteenth amendment, which by its second section, prohibits " the transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof."

For provisions relative to the shipment of liquor in interstate commerce, applicable to places noncontiguous to but subject to the jurisdiction of the United States, see title 18, sections 388 to 390.

For provisions relative to the mailing of liquors, see title 18, section 340.

UNITED STATES CODE, TITLE 28

JUDICIAL CODE AND JUDICIARY

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CHAPTER 6.—CIRCUIT COURTS OF APPEALS

Section 225. Appellate jurisdiction—

(a) *Review of final decisions.*—The circuit courts of appeal shall have appellate jurisdiction to review by appeal or writ of error final decisions—

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Third. * * * in the district court for the Canal Zone in the cases and mode prescribed in sections 1307, 1324, 1336, and 1341 to 1357 of title 48.

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(b) *Review of interlocutory orders or decrees of district courts.*—The circuit court of appeals shall also have appellate jurisdiction—

First. To review the interlocutory orders or decrees of the district courts, including the District Courts of Alaska, Hawaii, Virgin Islands, and Canal Zone, which are specified in section 227 of this title.

* * * * * * *

(Mar. 3, 1891, ch. 517, sec. 6, 26 Stat. 828; Mar. 3, 1911, ch. 231, sec. 128, 36 Stat. 1133; Jan. 28, 1915, ch. 22, sec. 2, 38 Stat. 803; Feb. 7, 1925, ch. 150, 43 Stat. 813; Feb. 13, 1925, ch. 229, sec. 1, 43 Stat. 936; May 20, 1926, ch. 347, sec. 13 (a), 44 Stat. 587; Apr. 11, 1928, ch. 354, sec. 1, 45 Stat. 422.)

CROSS-REFERENCE

See, also, Canal Zone Code, title 7, sections 61 and 62.

227. Appeals in proceedings for injunctions and receivers.—Where, upon a hearing in a district court, or by a judge thereof in vacation, an injunction is granted, continued, modified, refused, or dissolved by an interlocutory order or decree, or an application to dissolve or modify an injunction is refused, or an interlocutory order or decree is made appointing a receiver, or refusing an order to wind up a pending receivership or to take the appropriate steps to accomplish the purposes thereof, such as directing a sale or other disposal of property held thereunder, an appeal may be taken from such interlocutory order or decree to the circuit court of appeals; and sections 346 and 347 of this title shall apply to such cases in the circuit courts of appeals as to other cases therein. The appeal to the circuit court of appeals must be applied for within thirty days from the entry of such order or decree, and shall take precedence in the appellate court; and the proceedings in other respects in the district court shall not be stayed during the pendency of such appeal unless otherwise ordered by the court, or the appellate court, or a judge thereof. The district court, may, in its discretion, require an additional bond as a condition of the appeal. In all cases where an appeal from a final decree in admiralty to the circuit court of appeals is allowed an appeal may also be taken to said court from an interlocutory decree in admiralty determining the rights and liabilities of the parties: *Provided*, That the same is taken within fifteen days after the entry of the decree: *And provided further*, That within twenty days after such entry the appellant shall give notice of the appeal to the appellee or appellees; but the taking of such appeal shall not stay proceedings under the interlocutory decree otherwise ordered by the district court upon such terms as shall seem just. (Mar. 3, 1891, ch. 517, sec. 7, 26 Stat. 828; Feb. 18, 1895, ch. 96, 28 Stat. 666; June 6, 1900, ch. 803, 31 Stat. 660; Apr. 14, 1906, ch. 1627, 34 Stat. 116; Mar. 3, 1911, ch. 231, sec. 129, 36 Stat. 1134; Feb. 13, 1925, ch. 229, sec. 1, 43 Stat. 937; Apr. 3, 1926, ch. 102, 44 Stat. 233.)

NOTE.—Sections 346 and 347 of this title, referred to in this section, relate, respectively, to the certification of questions to the Supreme Court, and to review by the Supreme Court on certiorari.

228. Allowance of appeals and writs of error.—Any judge of a circuit court of appeals, in respect of cases brought or to be brought before that court, shall have the same powers and duties as to allowances of appeals and writs of error, and the conditions of such allowances, as by law belong to the justices or judges in respect of other courts of the United States, respectively. (Mar. 3, 1891, ch. 517, sec. 11, 26 Stat. 829; Mar. 3, 1911, ch. 231, sec. 132, 36 Stat. 1134.)

NOTE.—Power of Supreme Court to regulate the manner of taking appeals in criminal cases, see section 723a of this title.

230. Time for making application for appeal or writ of error.—No writ of error or appeal intended to bring any judgment or decree before a circuit court of appeals for review shall be allowed unless application therefor be duly made within three months after the entry of such judgment or decree. (Mar. 3, 1891, ch. 517, sec. 11, 26 Stat. 829; Feb. 13, 1925, ch. 229, sec. 8 (c), 43 Stat. 940.)

NOTE.—Power of Supreme Court to regulate, by rule, time of taking appeals in criminal cases, see section 723a of this title.

The writ of error has been abolished by section 861a of this title and appeal substituted therefor.

CHAPTER 16.—FEES, COMPENSATION, AND ACCOUNTS OF OFFICERS

Section 586a. United States marshals; accounts.—

NOTE.—This section expressly excepts the marshal of the district court in the Canal Zone.

CHAPTER 18.—PROCEDURE

Section 723a. Proceedings in criminal cases after verdict or finding of guilt; power of Supreme Court to prescribe by rule.—The Supreme Court of the United States shall have the power to prescribe, from time to time, rules of practice and procedure with respect to any or all proceedings after verdict, or finding of guilt by the court if a jury has been waived, or plea of guilty, in criminal cases in district courts of the United States, including the District Courts of Alaska, Hawaii, Puerto Rico, Canal Zone, and Virgin

Islands, in the Supreme Courts of the District of Columbia, Hawaii, and Puerto Rico, in the United States Court for China, in the United States Circuit Courts of Appeals, in the Court of Appeals of the District of Columbia, and in the Supreme Court of the United States: *Provided*, That nothing herein contained shall be construed to give the Supreme Court the power to abridge the right of the accused to apply for withdrawal of a plea of guilty, if such application be made within ten days after entry of such plea, and before sentence is imposed.

The right of appeal shall continue in those cases in which appeals are now authorized by law, but the rules made as herein authorized may prescribe the times for and manner of taking appeals and applying for writs of certiorari and preparing records and bills of exceptions and the conditions on which supersedeas or bail may be allowed.

The Supreme Court may fix the dates when such rules shall take effect and the extent to which they shall apply to proceedings then pending, and after they become effective all laws in conflict therewith shall be of no further force. (Feb. 24, 1933, ch. 119, secs. 1–3, 47 Stat. 904; Mar. 8, 1934, ch. —, 48 Stat. —.)

780. Survival of actions, suits, or proceedings—

(a) *By or against officer of United States, District of Columbia, Canal Zone, or territory or insular possession of United States, or of county, and so forth, of such territory or insular possession.*—Where, during the pendency of an action, suit, or other proceeding brought by or against an officer of the United States, or of the District of Columbia, or the Canal Zone, or of a Territory or an insular possession of the United States, or of a county, city, or other governmental agency of such Territory or insular possession, and relating to the present or future discharge of his official duties, such officer dies, resigns, or otherwise ceases to hold such office, it shall be competent for the court wherein the action, suit, or proceeding is pending, whether the court be one of first instance or an appellate tribunal, to permit the cause to be continued and maintained by or against the successor in office of such officer, if within six months after his death or separation from the office it be satisfactorily shown to the court that there is a substantial need for so continuing and maintaining the cause and obtaining an adjudication of the questions involved.

* * * * * * *

(c) *Notice of application for substitution of parties.*—Before a substitution under this section is made, the party or officer to be affected, unless expressly consenting thereto, must be given reasonable notice of the application therefor and accorded an opportunity to present any objection which he may have. (Feb. 8, 1899, ch. 121, 30 Stat. 822; Feb. 13, 1925, ch. 229, sec. 11, 43 Stat. 941.)

861 to 880. Procedure on error and appeal.—

NOTE.—Insofar as these sections relate to writs of error they are affected by sections 861a and 861b of title 28, which abolish the writ of error, substitute appeal therefor, and render applicable to appeals the statutes regulating writs of error.

Relative to procedure in criminal cases after verdict, see section 723a of this title.

UNITED STATES CODE, TITLE 29

LABOR

Section 48 to 48g. Employment Stabilization Act of 1931.—

NOTE.—The Act cited to the text was entitled "An Act to provide for the advance planning and regulated construction of public works, for the stabilization of industry, and for aiding in the prevention of unemployment during periods of business depression."

The term "construction agencies" as defined in section 48a, includes the Panama Canal.

UNITED STATES CODE, TITLE 31

MONEY AND FINANCE

Sections 1 to 58. The National Budget and Audit System.— (June 10, 1921, ch. 18, 42 Stat. 20.)

NOTE.—These sections, constituting chapter 1 of title 31, were derived from the Budget and Accounting Act, 1921.

71 to 122. Audit and settlement of accounts.—

NOTE.—These sections, some of the provisions of which may be of interest in the Canal Zone, constitute chapter 2 of title 31.

471 to 550. The public moneys.—

NOTE.—These sections constitute chapter 10 of title 31. Some of the sections which may be of interest in the Canal Zone are hereinafter indicated.

528. Duplicates for lost, stolen or destroyed disbursing officers' checks or postal checks or warrants.—

529. Advances of public moneys; prohibition against.—

529a. Same; enforcement of sections relating to narcotic drugs.—

530. Same; payment in advance for periodicals.—

NOTE.—See also title 5, section 118b.

581 to 722. Appropriations.—

NOTE.—These sections constitute chapter 11 of title 31. Some of the sections which may be of interest in the Canal Zone are hereinafter indicated.

581. Contents of estimates of appropriations and statements of expenditures and estimated expenditures; statements accompanying lump-sum appropriations.—

582. Statements required with estimates for lump-sum appropriations.—

621. Estimates of appropriations for Panama Canal.—(Aug. 1, 1914, ch. 223, sec. 6, 38 Stat. 679.)

NOTE.—This section is considered as having been covered by the Budget and Accounting Act, 1921.

625. Statement of proceeds of sales of old material.—

686, 686b. Purchase or manufacture of stores or materials or performance of services by bureau or department for another bureau or department.—

NOTE.—Section 686 was amended, and section 686b added, by Act June 30, 1932, ch. 314, secs. 601, 602, 47 Stat. 417.

718. Appropriations in annual appropriation acts not permanent.—

UNITED STATES CODE, TITLE 32

NATIONAL GUARD

Section 121. Enlisted strength of National Guard.—* * *: *Provided further*, That the word Territory as used in this title and in all laws relating to the land militia and National Guard shall include and apply to Hawaii, Alaska, Porto Rico, and the Canal Zone, and the militia of the Canal Zone shall be organized under such rules and regulations, not in conflict with the provisions of this title, as the President may prescribe. (June 3, 1916, ch. 134, sec. 62, 39 Stat. 198.)

NOTE.—The above proviso was omitted from the U.S. Code, but was restored by the seventh supplement thereto.

UNITED STATES CODE, TITLE 35

PATENTS

Sections 1 to 88. Patents.—

NOTE.—See Canal Zone Code, title 3, section 391, rendering the patent laws of the United States of the same force and effect in the Canal Zone as in the United States, and conferring jurisdiction in actions arising under such laws upon the district court.

UNITED STATES CODE, TITLE 39

THE POSTAL SERVICE

Sections 1 to 827. The Postal Service.—

NOTE.—See Canal Zone Code, title 2, section 271, relative to the application to the Canal Zone postal service of the laws, rules and regulations of the Postal Service of the United States, which are not inapplicable to conditions existing in the Canal Zone.

For provisions defining postal crimes, see title 18, sections 301 to 361.

UNITED STATES CODE, TITLE 40

PUBLIC BUILDINGS, PROPERTY, AND WORKS

Section 40a. Lease of buildings to Government; maximum rental.—After June 30, 1932, no appropriation shall be obligated or expended for the rent of any building or part of a building to be occupied for Government purposes at a rental in excess of the per annum rate of 15 per centum of the fair market value of the rented premises at date of the lease under which the premises are to be occupied by the Government nor for alterations, improvements, and repairs of the rented premises in excess of 25 per centum of the amount of the rent for the first year of the rental term, or for the rental term if less than one year: *Provided*, That the provisions of this section shall not apply to leases heretofore made, except when renewals thereof are made hereafter, nor to leases of premises in foreign countries for the foreign services of the United States: *Provided further*, That the provisions of this section as applicable to rentals, shall apply only where the rental to be paid shall exceed $2,000 per annum. (June 30, 1932, ch. 314, sec. 322, 47 Stat. 412; Mar. 3, 1933, ch. 212, Title II, sec. 15, 47 Stat. 1517.)

303b. Lease of buildings by Government; money consideration.—After June 30, 1932, except as otherwise specifically provided by law, the leasing of buildings and properties of the United States shall be for a money consideration only, and there shall not be included in the lease any provision for the alteration, repair, or improvement of such buildings or properties as a part of the consideration for the rental to paid for the use and occupation of the same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts. (June 30, 1932, ch. 314, sec. 321, 47 Stat. 412.)

321 to 326. Hours of labor on public works.—(Aug. 1, 1892, ch. 352, 27 Stat. 340; June 19, 1912, ch. 174, 37 Stat. 137; Mar. 3, 1913, ch. 106, 37 Stat. 726; Mar. 4, 1917, ch. 180, 39 Stat. 1192.)

NOTE.—These sections fix an eight-hour day for laborers and mechanics employed on a public work of the United States, and require contracts to which the United States is a party, with certain exceptions, to provide for an eight-hour day.

UNITED STATES CODE, TITLE 41

PUBLIC CONTRACTS

Section 5. Advertisements for proposals for purchases and contracts for supplies or services for departments of Government.—Except as otherwise provided by law all purchases and contracts for supplies or services in any of the departments of the Government and purchases of Indian supplies, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same, when the public exigencies do not require the immediate delivery of the articles, or performance of the service. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract, at the places and in the manner in which such articles are usually bought and sold, or such services engaged, between individuals. (R.S. sec. 3709; June 25, 1910, ch. 431, sec. 23, 36 Stat. 861.)

CROSS-REFERENCE

Purchase of supplies for use of Panama Canal or for use in Canal Zone, in the open market and without advertising, if the amount involved does not exceed $500, see Canal Zone Code, title 2, section 351.

10a. American materials required for public use.—Notwithstanding any other provision of law, and unless the head of the department or independent establishment concerned shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States, shall be acquired for public use. This section shall not apply with respect to articles, materials, or supplies for use outside the United States, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. (Mar. 3, 1933, ch. 212, title III, sec. 2, 47 Stat. 1520.)

NOTE.—Relative to the application of sections 10a and 10b to the Canal Zone, see section 10c of this title.

For a similar provision applicable to the expenditure of appropriations for the military and nonmilitary activities of the War Department, see title 10, section 1212.

10b. Contracts for public works; specification for use of American materials; blacklisting contractors violating requirements.—(a) Every contract for the construction, alteration, or repair of any public building or public work in the United States growing out of an appropriation heretofore made or hereafter to be made shall contain a provision that in the performance of the work the contractor, subcontractors, material men, or suppliers, shall use only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States except as provided in section 10a of this title: *Provided*, *however*, That if the head of the department or independent establishment making the contract shall find that in respect to some particular articles, materials, or supplies it is impracticable to make such requirement or that it would unreasonably increase the cost, an exception shall be noted in the specifications as to that particular article, material, or supply, and a public record made of the findings which justified the exception.

(b) If the head of a department, bureau, agency, or independent establishment which has made any contract containing the provision required by subsection (a) finds that in the performance of such contract there has been a failure to comply with such provisions, he shall make public his findings, including therein the name of the contractor obligated under such contract, and no other contract for the construction, alteration, or repair of any public building or public work in the United States or elsewhere shall be awarded to such contractor, subcontractors, material men, or suppliers with which such contractor is associated or affiliated, within a period of three years after such finding is made public. (Mar. 3, 1933, ch. 212, title III, sec. 3, 47 Stat. 1520.)

10c. Definition of terms used in sections 10a and 10b.—When used in sections 10a and 10b of this title—

(a) The term " United States ", when used in a geographical sense, includes the United States and any place subject to the jurisdiction thereof

(b) The terms " public use ", " public building ", and " public work " shall mean use by, public building of, and public work of, the United States, the District of Columbia, Hawaii, Alaska, Puerto Rico, the Philippine Islands, American Samoa, the Canal Zone, and the Virgin Islands. (Mar. 3, 1933, ch. 212, title III, sec. 1, 47 Stat. 1520.)

26 and 27. Exchange and disposition of typewriting machines.—(Mar. 4, 1915, ch. 147, sec. 5, 38 Stat. 1161; June 5, 1920, ch. 235, sec. 7, 41 Stat. 947.)

UNITED STATES CODE, TITLE 45

RAILROADS

CHAPTER 1.—SAFETY APPLIANCES AND EQUIPMENT ON RAILROAD ENGINES AND CARS

Sections 1 to 10. Safety appliances and equipment on railway engines and cars.—(Mar. 2, 1893, ch. 196, 27 Stat. 531; April 1, 1896, ch. 87, 29 Stat. 85; Mar. 2, 1903, ch. 976, 32 Stat. 943.)

NOTE.—These sections are extended so as to apply to the Canal Zone by Canal Zone Code, title 2, sections 241 to 244.

CHAPTER 2.—LIABILITY FOR INJURIES TO EMPLOYEES

Section 52. Carriers in Territories or other possessions of United States.—Every common carrier by railroad in the Territories, the District of Columbia, the Panama Canal Zone, or other possessions of the United States shall be liable in damages to any person suffering injury while he is employed by such carrier in any of said jurisdictions, or, in case of the death of such employee, to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment. (Apr. 22, 1908, ch. 149, sec. 2, 35 Stat. 65.)

CROSS-REFERENCE

Compensation for injury to or death of employees of the Panama Railroad Company, see title 5, sections 751 to 793.

53. Contributory negligence; diminution of damages.—In all actions hereafter brought against any such common carrier by railroad under or by virtue of any of the provisions of this chapter to recover damages for personal injuries to an employee, or where such injuries have resulted in his death, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee: *Provided*, That no such employee who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee. (Apr. 22, 1908, ch. 149, sec. 3, 35 Stat. 66.)

54. Assumption of risks of employment.—In any action brought against any common carrier under or by virtue of any of the provisions of this chapter to recover damages for injuries to, or the death of, any of its employees, such employee shall not be held to have assumed the risks of his employment in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee. (Apr. 22, 1908, ch. 149, sec. 4, 35 Stat. 66.)

CROSS-REFERENCE

Assumption of risk, see, also, section 7 of this title.

55. Contract, rule, regulation, or device exempting from liability; set-off.—Any contract, rule, regulation, or device whatsoever, the purpose or intent of which shall be to enable any common carrier to exempt itself from any liability created by this chapter, shall to that extent be void: *Provided*, That in any action brought against any such common carrier under or by virtue of any of the provisions of this chapter, such common carrier may set off therein any sum it has contributed or paid to any insurance, relief benefit, or indemnity that may have been paid to the injured employee or the person entitled thereto on account of the injury or death for which said action was brought. (Apr. 22, 1908, ch. 149, sec. 5, 35 Stat. 66.)

56. Actions; limitation; concurrent jurisdiction of courts; removal of case in State court.—No action shall be maintained under this chapter unless commenced within two years from the day the cause of action accrued.

Under this chapter an action may be brought in a district court of the United States, in the district of the residence of the defendant, or in which the cause of action arose, or in which the defendant shall be doing business at the time of commencing such action. The jurisdiction of the courts of the United States under this chapter shall be concurrent with that of the courts of the several States, and no case arising under this chapter and brought in any State court of competent jurisdiction shall be removed to any court of the United States. (Apr. 22, 1908, ch. 149, sec. 6, 35 Stat. 66; Apr. 5, 1910, ch. 143, sec. 1, 36 Stat. 291.)

57. Who included in term "common carrier."—The term "common carrier" as used in this chapter shall include the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier. (Apr. 22, 1908, ch. 149, sec. 7, 35 Stat. 66.)

58. Duty or liability of common carriers and rights of employees under other Acts not impaired.—Nothing in this chapter shall be held to limit the duty or liability of common carriers or to impair the rights of their employees under any other Act or Acts of Congress. (Apr. 22, 1908, ch. 149, sec. 8, 35 Stat. 66.)

59. Survival of right of action of person injured.—Any right of action given by this chapter to a person suffering injury shall survive to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee, and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, but in such cases there shall be only one recovery for the same injury. (Apr. 22, 1908, ch. 149, sec. 9; Apr. 5, 1910, ch. 143, sec. 2, 36 Stat. 291.)

UNITED STATES CODE, TITLE 46

SHIPPING

Ch.		Sec.
2.	Registry and Recording	12
18.	Merchant Seamen	541
20.	Suits In Admiralty By Or Against Vessels Or Cargoes Of United States	741
21.	Death On The High Seas By Wrongful Act	761
23.	Shipping Act	801

CROSS-REFERENCE

For provisions respecting jurisdiction, practice and procedure in admiralty, see Canal Zone Code, title 7, sections 23 and 25.

CHAPTER 2.—REGISTRY AND RECORDING

Section 12. Provisional certificates of registry to vessels abroad.—Consular officers of the United States and such other persons as may from time to time be designated by the President for the purpose are authorized to issue provisional certificates of registry to vessels abroad which have been purchased by citizens of the United States, including corporations, as defined in the preceding section.

(a) Such a provisional certificate shall entitle the vessel to the privileges of a vessel of the United States in trade with foreign countries or with the Philippine Islands and the islands of Guam and Tutuila until the expiration of six months from its date or until ten days after the vessel's arrival at a port of the United States, whichever first happens, and no longer. On arrival at a port of the United States the vessel shall become subject to the laws relating to officers, inspection, and measurement.

(b) The Secretary of Commerce shall prescribe the conditions in accordance with which such provisional certificates shall be issued and the manner in which they shall be surrendered in exchange for certificates of registry at ports of the United States.

(c) The form of such provisional certificate shall be prescribed by the Commissioner of Navigation and shall include the name of the ship and of the master, time and place of purchase and names of purchasers, and the best particulars respecting her tonnage, build, description, and inspection or survey which the consular officer is able to obtain.

(d) Copies of such provisional certificates shall be forwarded as soon as practicable by the issuing officer to the Commissioner of Navigation. (Mar. 4, 1915, ch. 172, sec. 1, 38 Stat. 1193.)

CHAPTER 18.—MERCHANT SEAMEN

Sections 541 to 713. Merchant seamen.—

NOTE.—Respecting the application to seamen of vessels of the United States at the Canal Zone of the laws relating to seamen of vessels of the United States on foreign voyages, see Canal Zone Code, title 2, sections 391 and 392.

CHAPTER 20.—SUITS IN ADMIRALTY BY OR AGAINST VESSELS OR CARGOES OF UNITED STATES

Section 741. Exemption of United States vessels and cargoes from arrest or seizure.—No vessel owned by the United States or by any corporation in which the United States or its representatives shall own the entire outstanding capital stock or in the possession of the United States or of such corporation or operated by or for the United States or such corporation, and no cargo owned or possessed by the United States or by such corporation, shall, in view of the provision herein made for a libel in personam, be subject to arrest or seizure by judicial process in the United States or its possessions: *Provided*, That this chapter shall not apply to the Panama Railroad Company. (Mar. 9, 1920, ch. 95, sec. 1, 41 Stat. 525.)

742. Libel in personam.—In cases where if such vessel were privately owned or operated, or if such cargo were privately owned and possessed, a proceeding in admiralty could be maintained at the time of the commencement of the action herein provided for, a libel in personam may be brought against the United States or against such corporation, as the case may be, provided that such vessel is employed as a merchant vessel or is a tugboat operated by such corporation. Such suits shall be brought in the district court of the United States for the district in which the parties so suing, or any of them, reside or have their principal place of business in the United States, or in which the vessel or cargo charged with liability is found. The libelant shall forthwith serve a copy of his libel on the United States attorney for such district and mail a copy thereof by registered mail to the Attorney General of the United States, and shall file a sworn return of such service and mailing. Such service and mailing shall constitute valid service on the United States and such corporation. In case the United States or such corporation shall file a libel in rem or in personam in any district, a cross libel in personam may be filed or a set-off claimed against the United States or such corporation with the same force and effect as if the libel had been filed by a private party. Upon application of either party the cause may, in the discretion of the court, be transferred to any other district court of the United States. (Mar. 9, 1920, ch. 95, sec. 2, 41 Stat. 525.)

743. Procedure in cases of libel in personam.—Such suits shall proceed and shall be heard and determined according to the principles of law and to the rules of practice obtaining in like cases between private parties. A decree against the United States or such corporation may include costs of suit, and when the decree is for a money judgment, interest at the rate of 4 per centum per annum until satisfied, or at any higher rate which shall be stipulated in any contract upon which such decree shall be based. Interest shall run as ordered by the court. Decrees shall be subject to appeal and revision as provided in other cases of admiralty and maritime jurisdiction. If the libelant so elects in his libel, the suit may proceed in accordance with the principles of libels in rem wherever it shall appear that had the vessel or cargo been privately owned and possessed a libel in rem might have been maintained. Election so to proceed shall not preclude the libelant in any proper case from seeking relief in personam in the same suit. Neither the United States nor such corporation shall be required to give any bond or admiralty stipulation on any proceeding brought hereunder. Any such bond or stipulation given prior to March 9, 1920, in admiralty causes by the United States, the United States Shipping Board, or the United States Shipping Board Merchant Fleet Corporation, shall become void and be surrendered and canceled upon the filing of a suggestion by the Attorney General or other duly authorized law officer that the United States is interested in such cause, and assumes liability to satisfy any decree included within said bond or stipulation, and thereafter any such decree shall be paid as provided in section 748 of this chapter. (Mar. 9, 1920, ch. 95, sec. 3, 41 Stat. 526.)

743a. Same; interest.—No interest shall be allowed on any claim prior to the time when suit on such claim is brought as authorized by section 745 of this title. (Mar. 9, 1920, ch. 95, sec. 5, 41 Stat. 526; June 30, 1932, ch. 315, 47 Stat. 420.)

744. Release of privately owned vessel after seizure.—If a privately owned vessel not in the possession of the United States or of such corporation is arrested or attached upon any cause of action arising or alleged to have arisen from previous possession, ownership, or operation of such vessel by the United States or by such corporation, such vessel shall be released without bond or stipulation therefor upon the suggestion by the United States, through its Attorney General or other duly authorized law officer, that it is interested in such cause, desires such release, and assumes the liability for the satisfaction of any decree obtained by the libelant in such cause, and thereafter such cause shall proceed against the United States in accordance with the provisions of this chapter. (Mar. 9, 1920, ch. 95, sec. 4, 41 Stat. 526.)

745. Causes of action on which suits may be brought; limitations.—Suits as authorized in this chapter shall be brought within two years after the cause of action arises: *Provided further*, That the limitations in this section contained for the commencement of suits hereunder shall not bar any suit against the United States or the United States Shipping Board Merchant Fleet Corporation, formerly known as the United States Shipping Board Emergency Fleet Corporation, brought hereunder on or before December 31, 1932, if such suit is based upon a cause of action whereon a prior suit in admiralty or an action at law or an action under subdivision (1) of section 250 of title 28, was commenced prior to January 6, 1930, and was or may hereafter be dismissed because not commenced within the time or in the manner prescribed in this section, or otherwise not commenced or prosecuted in accordance with its provisions: *Provided further*, That such prior suit must have been commenced within the statutory period of limitation for common-law actions against the United States cognizable in the Court of Claims: *Provided further*, That there shall not be revived hereby any suit at law, in admiralty, or under subdivision (1) of section 250 of title 28 heretofore or hereafter dismissed for lack of prosecution after filing of suit. (Mar. 9, 1920, ch. 95, sec. 5, 41 Stat. 526; June 30, 1932, ch. 315, 47 Stat. 420.)

746. Exemptions and limitations of liability.—The United States or such corporation shall be entitled to the benefits of all exemptions and of all limitations of liability accorded by law to the owners, charterers, operators, or agents of vessels. (Mar. 9, 1920, ch. 95, sec. 6, 41 Stat. 527.)

747. Seizures in foreign jurisdictions.—If any vessel or cargo within the purview of sections 741 and 744 of this chapter, is arrested, attached, or otherwise seized by process of any court in any country other than the United States, or if any suit is brought therein against the master of any such vessel for any cause of action arising from, or in connection with, the possession, operation, or ownership of any such vessel, or the possession, carriage, or ownership of any such cargo, the Secretary of State of the United States in his discretion, upon the request of the Attorney General of the United States, or any other officer duly authorized by him, may direct the United States consul residing at or nearest the place at which such action may have been commenced to claim such vessel or cargo as immune from such arrest, attachment, or other seizure, and to execute an agreement, undertaking, bond, or stipulation for and on behalf of the United States, or the United States Shipping Board, or such corporation as by said court required, for the release of such vessel or cargo, and for the prosecution of any appeal; or may, in the event of such suits against the master of any such vessel, direct said United States consul to enter the appearance of the United States, or of the United States Shipping Board, or of such corporation, and to pledge the credit thereof to the payment of any judgment and cost that may be entered in such suit. The Attorney General is vested with power and authority to arrange with any bank, surety company, person, firm, or corporation in the United States, its Territories and possessions, or in any foreign country, to execute any such aforesaid bond or stipulation as surety or stipulator thereon, and to pledge the credit of the United States to the indemnification of such surety or stipulator as may be required to secure the execution of such bond or stipulation. The presentation of a copy of the judgment roll in any such suit, certified by the clerk of the court and authenticated by the certificate and seal of the United States consul claiming such vessel or cargo, or his successor, and by the certificate of the Secretary of State as to the official capacity of such consul, shall be sufficient evidence to the proper accounting officers of the United States, or of the United States Shipping Board, or of such corporation, for the allowance and payment of such judgments: *Provided*, *however*, That nothing in this section shall be held to prejudice or preclude a claim of the immunity of such vessel or cargo from foreign jurisdiction in a proper case. (Mar. 9, 1920, ch. 95, sec. 7, 41 Stat. 527.)

748. Payment of judgment, award, or settlement.—Any final judgment rendered in any suit herein authorized, and any final judgment within the purview of sections 744 and 747 of this chapter, and any arbitration award or settlement had and agreed to under the provisions of section 749 of this chapter, shall, upon the presentation of a duly authenticated copy thereof, be paid by the proper accounting officers of the United States out of any appropriation or insurance fund or other fund especially available therefor; otherwise there is appropriated out of any money in the Treasury of the United States not otherwise appropriated, a sum sufficient to pay any such judgment or award or settlement. (Mar. 9, 1920, ch. 95, sec. 8, 41 Stat. 527.)

749. Arbitration, compromise, or settlement of claims.—The Secretary of any department of the Government of the United States, or the United States Shipping Board, or the board of trustees of such corporation, having control of the possession or operation of any merchant vessel are, and each is, authorized to arbitrate, compromise, or settle any claim in which suit will lie under the provisions of sections 742, 744, and 750 of this chapter. (Mar. 9, 1920, ch. 95, sec. 9, 41 Stat. 527.)

750. Recovery for salvage services by vessel or crew.—The United States, and the crew of any merchant vessel owned or operated by the United States, or such corporation, shall have the right to collect and sue for salvage services rendered by such vessel and crew, and any moneys recovered therefrom by the United States for its own benefit, and not for the benefit of the crew, shall be covered into the United States Treasury to the credit of the department of the Government of the United States, or of the United States Shipping Board, or of such corporation, having control of the possession or operation of such vessel. (Mar. 9, 1920, ch. 95, sec. 10, 41 Stat. 528.)

751. Disposition of moneys recovered by United States.—All moneys recovered in any suit brought by the United States on any cause of action arising from, or in connection with, the possession, operation, or ownership of any merchant vessel, or the possession, carriage, or ownership of any cargo, shall be covered into the United States Treasury to the credit of the department of the Government of the United States, or of the United States Shipping Board, or of such aforesaid corporation, having control of the vessel or cargo with respect to which such cause of action arises, for reimbursement of the appropriation, or insurance fund, or other funds, from which the loss, damage, or compensation for which said judgment was recovered has been or will be paid. (Mar. 9, 1920, ch. 95, sec. 11, 41 Stat. 528.)

752. Reports as to suits, awards, and settlements.—The Attorney General shall report to the Congress at each session thereof the suits under this chapter in which final judgment shall have been rendered for or against the United States and such aforesaid corporation, and the Secretary of any department of the Government of the United States, and the United States Shipping Board, and the board of trustees of any such aforesaid corporation, shall likewise report the arbitration awards or settlements of claims which shall have been agreed to since the previous session, and in which the time to appeal shall have expired or have been waived. (Mar. 9, 1920, ch. 95, sec. 12, 41 Stat. 528.)

CHAPTER 21.—DEATH ON THE HIGH SEAS BY WRONGFUL ACT

Sections 761 to 768. Suits in admiralty for damages for wrongful death on the high seas.—(Mar. 30, 1920, ch. 111, 47 Stat. 537.)

NOTE.—These sections are rendered inapplicable to navigable waters in the Canal Zone by section 767 of this title.

Relative to the admiralty jurisdiction of the district court, see Canal Zone Code, title 7, sections 23 and 25.

CHAPTER 23.—SHIPPING ACT

Sections 801 to 842. Shipping Act, 1916, as amended.—(Sept. 7, 1916, ch. 451, 39 Stat. 728, as amended.)

NOTE.—The act of Sept. 7, 1916, was entitled "An act to establish a United States Shipping Board for the purpose of encouraging, developing, and creating a naval auxiliary and naval reserve and a merchant marine to meet the requirements of the commerce of the United States with its territories and possessions and with foreign countries; to regulate carriers by water engaged in the foreign and interstate commerce of the United States; and for other purposes."

With respect to the application of these sections to possessions of the United States, see section 801 of this title.

With respect to the jurisdiction of courts in possessions, see section 829 of this title.

CHAPTER 24A.—MERCHANT MARINE ACT, 1928

Sections 891 to 891y. Merchant Marine Act, 1928.—(May 22, 1928, ch. 675, 45 Stat. 689; as amended.)

NOTE.—The Act above cited was entitled "An Act to further develop an American merchant marine, to assure its permanence in the transportation of the foreign trade of the United States, and for other purposes."

Section 891u defines the words "foreign trade" to mean "trade between the United States, its Territories or possessions, or the District of Columbia and a foreign country: *Provided, however*, That the loading or the unloading of cargo, mail, or passengers at any port in any Territory or possession of the United States shall be construed to be foreign trade if the stop at such Territory or possession is an intermediate stop on what would otherwise be a voyage in foreign trade."

Section 891r, relative to the transportation of government officials, is hereinafter shown.

891r. Transportation of Government officials.—Any officer or employee of the United States traveling on official business overseas to foreign countries, or to any of the possessions of the United States, shall travel and transport his personal effects on ships registered under the laws of the United States when such ships are available, unless the necessity of his mission requires the use of a ship under a foreign flag: *Provided*, That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor. (May 22, 1928, ch. 675, sec. 601, 45 Stat. 697.)

UNITED STATES CODE, TITLE 47

TELEGRAPHS, TELEPHONES, AND RADIO-TELEGRAPHS

Ch.	Sec.	Ch.	Sec.
2. Submarine cables	34	4. Radio Act of 1927	115

CHAPTER 2.—SUBMARINE CABLES

Section 34. Licenses for landing or operating cables connecting United States with foreign country; necessity for.—No person shall land or operate in the United States any submarine cable directly or indirectly connecting the United States with any foreign country, or connecting one portion of the United States with any other portion thereof, unless a written license to land or operate such cable has been issued by the President of the United States. The conditions of sections 34 to 39 of this title shall not apply to cables, all of which, including both terminals, lie wholly within the continental United States. (May 27, 1921, ch. 12, sec. 1, 42 Stat. 8.)

CROSS-REFERENCE

Term "United States" as including the Canal Zone, see section 38 of this title.

35. Same; withholding or revoking by President; terms and conditions of licenses.—The President may withhold or revoke such license when he shall be satisfied after due notice and hearing that such action will assist in securing rights for the landing or operation of cables in foreign countries, or in maintaining the rights or interests of the United States or of its citizens in foreign countries, or will promote the security of the United States, or may grant such license upon such terms as shall be necessary to assure just and reasonable rates and service in the operation and use of cables so licensed. The license shall not contain terms or conditions granting to the licensee exclusive rights of landing or of operation in the United States. Nothing herein contained shall be construed to limit the power and jurisdiction heretofore granted the Interstate Commerce Commission with respect to the transmission of messages. (May 27, 1921, ch. 12, sec. 2, 42 Stat. 8.)

36. Same; preventing landing or operating of cables.—The President is empowered to prevent the landing of any cable about to be landed in violation of sections 34 to 39 of this title. When any such cable is about to be or is landed or is being operated without a license, any district court of the United States exercising jurisdiction in the district in which such cable is about to be or is landed, or any district court of the United States having jurisdiction of the parties, shall have jurisdiction, at the suit of the United States, to enjoin the landing or operation of such cable or to compel, by injunction, the removal thereof. (May 27, 1921, ch. 12, sec. 3, 42 Stat. 8.)

37. Same; violations; punishment.—Whoever knowingly commits, instigates, or assists in any act forbidden by section 34 of this title shall be guilty of a misdemeanor and shall be fined not more than $5,000, or imprisoned for not more than one year, or both. (May 27, 1921, ch. 12, sec. 4, 42 Stat. 8.)

38. Same; definitions.—The term "United States" as used in sections 34 to 39 of this title includes the Canal Zone, the Philippine Islands, and all territory continental or insular, subject to the jurisdiction of the United States of America. (May 27, 1921, ch. 12, sec. 5, 42 Stat. 8.)

39. Same; amendment, modification, etc., of rights granted.—No right shall accrue to any government, person, or corporation under the terms of sections 34 to 39 of this title that may not be rescinded, changed, modified, or amended by the Congress. (May 27, 1921, ch. 12, sec. 6, 42 Stat. 9.)

CHAPTER 4.—RADIO ACT OF 1927

Section 115. Philippine Islands and Canal Zone; application of chapter.—This chapter (sections 81 to 119 of this title) shall not apply to the Philippine Islands or to the Canal Zone. In international radio matters the Philippine Islands and the Canal Zone shall be represented by the Secretary of State. (Feb. 23, 1927, ch. 169, sec. 35, 44 Stat. 1174.)

120 and 121. Radio equipment on ocean-going vessels using ports of Canal Zone.—

Note.—These sections appear in the text of the Canal Zone Code as sections 361 and 362 of title 2.

UNITED STATES CODE, TITLE 48

TERRITORIES AND INSULAR POSSESSIONS

CHAPTER 6.—CANAL ZONE

Note.—The chapter "Canal Zone" embraces sections 1301 to 1371p of title 48. These sections, excepting such as are hereinafter specifically mentioned, appear in the text of the Canal Zone Code. For the corresponding section numbers, see table 5, page 1033.

Sections 1304a to 1304c. Modification of boundary line with respect to Paitilla Point Military Reservation.—(May 3, 1932, ch. 162, 47 Stat. 145.)

Note.—These sections authorizing the effectuation with the Republic of Panama of a modification of the boundary line between the Canal Zone and the Republic with respect to the Paitilla Point Military reservation, are omitted from the text of the Canal Zone Code as not constituting permanent legislation.

1309. Early laws and regulations continued.—(Aug. 24, 1912, ch. 390, sec. 2, 37 Stat. 561.)

Note.—This section ratified and confirmed, as valid and binding until otherwise provided by Congress, all laws, orders, regulations and ordinances adopted and promulgated prior to August 24, 1912, in the Canal Zone by order of the President for the government and sanitation of the Canal Zone and the construction of the Panama Canal. This section is omitted from the text of the Canal Zone Code as being executed.

1320. Injuries to employees.—(Aug. 24, 1912, ch. 390, sec. 5, 37 Stat. 562.)

Note.—This section which required the President to provide a method for the determination and adjustment of claims arising out of personal injuries to employees occurring while directly engaged in actual work in connection with the construction, maintenance, operation, or sanitation of the Canal or of the Panama Railroad, or of any auxiliary canals, locks, or other works necessary and convenient for the construction, maintenance, operation, or sanitation of the Canal, is omitted from the text of the Canal Zone Code as being covered by the Federal Employees Compensation Act (U.S. Code, title 5, secs. 751 to 793).

1324. Interest on deposit money orders.—

Note.—This section was superseded by section 1323b of this title which appears in the Canal Zone Code as section 274 of title 2.

1325. Disposition of interest received on bank deposits of money-order funds.—

NOTE.—This section was superseded by section 1323c of this title which appears in the Canal Zone Code as section 275 of title 2.

1332. Payments for Toro Point Light.—

NOTE.—This section is omitted from the text of the Canal Zone Code as being obsolete.

1354. Transfer of causes to new courts; continuance of supreme courts for determination of pending causes.—

NOTE.—Section 9 of the Panama Canal Act, from which this section was derived, was amended by the Act of February 16, 1933 (ch. 91, 47 Stat. 814), in such manner as to eliminate this section.

1355. Continuance of laws defining duties of clerks or ministerial officers and governing practice and procedure.—

NOTE.—Section 9 of the Panama Canal Act, from which this section was derived, was amended by the Act of February 16, 1933 (ch. 91, 47 Stat. 814), in such manner as to eliminate this section.

1357. Common law and equity jurisdiction blended.—

NOTE.—The provisions constituting this section were amended by the Act of February 16, 1933 (ch. 91, sec. 3, 47 Stat. 817); however, in the seventh supplement to the United States Code, the amended provisions were inadvertently placed in section 1356 as the last sentence thereof.

UNITED STATES CODE, TITLE 49

TRANSPORTATION

Ch.	Sec.	Ch.	Sec.
4. Bills of Lading	81	6. Air Commerce	171

CHAPTER 4.—BILLS OF LADING

Section 81. Transportation included.—Bills of lading issued by any common carrier for the transportation of goods in any Territory of the United States, or the District of Columbia, or from a place in a State to a place in a foreign country, or from a place in one State to a place in another State, or from a place in one State to a place in the same State through another State or foreign country, shall be governed by this chapter. (Aug. 29, 1916, ch. 415, sec. 1, 39 Stat. 538.)

NOTE.—As defined in section 123 of this title, the word "State" includes any "isthmian" possession.

This chapter is rendered applicable to shipments wholly within the Canal Zone by Canal Zone Code, title 3, section 1441.

82. Straight bill of lading.—A bill in which it is stated that the goods are consigned or destined to a specified person is a straight bill. (Aug. 29, 1916, ch. 415, sec. 2, 39 Stat. 539.)

83. Order bill of lading; negotiability.—A bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill is an order bill. Any provision in such a bill or in any notice, contract, rule, regulation, or tariff that it is non-negotiable shall be null and void and shall not affect its negotiability within the meaning of this chapter unless upon its face and in writing agreed to by the shipper. (Aug. 29, 1916, ch. 415, sec. 3, 39 Stat. 539.)

84. Order bills in parts or sets; liability of carrier.—Order bills issued in a State for the transportation of goods to any place in the United States on the Continent of North America, except Alaska and Panama, shall not be issued in parts or sets. If so issued, the carrier issuing them shall be liable for failure to deliver the goods described therein to anyone who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts: *Provided, however*, That nothing contained in this section shall be interpreted or construed to forbid the issuing of order bills in parts or sets for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries, or to impose the liabilities set forth in this section for so doing. (Aug. 29, 1916, ch. 415, sec. 4, 39 Stat. 539.)

85. Indorsement on duplicate bill; liability.—When more than one order bill is issued in a State for the same goods to be transported to any place in the United States on the Continent of North America, except Alaska and Panama, the word "duplicate", or some other word or words indicating that the document is not an original bill, shall be placed plainly upon the face of every such bill except the one first issued. A carrier shall be liable for the damage caused by his failure so to do to anyone who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill: *Provided, however*, That nothing contained in this section shall in such case for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries be interpreted or construed so as to require the placing of the word "duplicate" thereon, or to impose the liabilities set forth in this section for failure so to do. (Aug. 29, 1916, ch. 415, sec. 5, 39 Stat. 539.)

86. Indorsement on straight bill.—A straight bill shall have placed plainly upon its face by the carrier issuing it "non-negotiable" or "not negotiable."

This section shall not apply, however, to memoranda or acknowledgements of an informal character. (Aug. 29, 1916, ch. 415, sec. 6, 39 Stat. 539.)

87. Effect of insertion of name of person to be notified.—The insertion in an order bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill or constitute notice to a purchaser thereof of any rights or equities of such person in the goods. (Aug. 29, 1916, ch. 415, sec. 7, 39 Stat. 539.)

88. Duty to deliver goods on demand; refusal.—A carrier, in the absence of some lawful excuse, is bound to deliver goods upon a demand made either by the consignee named in the bill for the goods or, if the bill is an order bill, by the holder thereof, if such a demand is accompanied by—

(a) An offer in good faith to satisfy the carrier's lawful lien upon the goods;

(b) Possession of the bill of lading and an offer in good faith to surrender, properly indorsed, the bill which was issued for the goods, if the bill is an order bill; and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the carrier.

In case the carrier refuses or fails to deliver the goods, in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure. (Aug. 29, 1916, ch. 415, sec. 8, 39 Stat. 539.)

89. **Delivery; when justified.**—A carrier is justified, subject to the provisions of the three following sections, in delivering goods to one who is—

(a) A person lawfully entitled to the possession of the goods, or

(b) The consignee named in a straight bill for the goods, or

(c) A person in possession of an order bill for the goods, by the terms of which the goods are deliverable to his order; or which has been indorsed to him, or in blank by the consignee, or by the mediate or immediate indorsee of the consignee. (Aug. 29, 1916, ch. 415, sec. 9, 39 Stat. 540.)

90. **Liability for delivery to person not entitled thereto.**—Where a carrier delivers goods to one who is not lawfully entitled to the possession of them, the carrier shall be liable to anyone having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section; and, though he delivered the goods as authorized by either of said subdivisions, he shall be so liable if prior to such delivery he—

(a) Had been requested, by or on behalf of a person having a right of property or possession in the goods, not to make such delivery, or

(b) Had information at the time of the delivery that it was to a person not lawfully entitled to the possession of the goods.

Such request or information, to be effective within the meaning of this section, must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a request or information, and must be given in time to enable the officer or agent to whom it is given, acting with reasonable diligence, to stop delivery of the goods. (Aug. 29, 1916, ch. 415, sec. 10, 39 Stat. 540.)

91. **Liability for delivery without cancellation of bill.**—Except as provided in section 106 of this chapter, and except when compelled by legal process, if a carrier delivers goods for which an order bill had been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to anyone who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier and notwithstanding delivery was made to the person entitled thereto. (Aug. 29, 1916, ch. 415, sec. 11, 39 Stat. 540.)

92. Liability in case of delivery of part of goods.—Except as provided in section 106 of this chapter, and except when compelled by legal process, if a carrier delivers part of the goods for which an order bill had been issued and fails either—

(a) To take up and cancel the bill, or

(b) To place plainly upon it a statement that a portion of the goods has been delivered with a description which may be in general terms either of the goods or packages that have been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill to anyone who for value and in good faith purchases it, whether such purchaser acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto. (Aug. 29, 1916, ch. 415, sec. 12, 39 Stat. 540.)

93. Alteration of bill.—Any alteration, addition, or erasure in a bill after its issue without authority from the carrier issuing the same either in writing or noted on the bill, shall be void whatever be the nature and purpose of the change, and the bill shall be enforceable according to its original tenor. (Aug. 29, 1916, ch. 415, sec. 13, 39 Stat. 540.)

94. Loss, etc., of bill; delivery of goods on order of court.—Where an order bill has been lost, stolen, or destroyed a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss, theft, or destruction and upon the giving of a bond, with sufficient surety, to be approved by the court, to protect the carrier or any person injured by such delivery from any liability or loss incurred by reason of the original bill remaining outstanding. The court may also in its discretion order the payment of the carrier's reasonable costs and counsel fees: *Provided*, A voluntary indemnifying bond without order of court shall be binding on the parties thereto.

The delivery of the goods under an order of the court, as provided in this section, shall not relieve the carirer from liability to a person to whom the order bill has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods. (Aug. 29, 1916, ch. 415, sec. 14, 39 Stat. 540.)

95. Liability on bill marked "duplicate."—A bill, upon the face of which the word "duplicate" or some other word or words indicating that the document is not an original bill is placed, plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability. (Aug. 29, 1916, ch. 415, sec. 15, 39 Stat. 541.)

96. Claim of title as excuse for refusal to deliver.—No title to goods or right to their possession asserted by a carrier for his own benefit shall excuse him from liabilty for refusing to deliver the goods according to the terms of a bill issued for them, unless such title or right is derived directly or indirectly from a transfer made by the consignor or consignee after the shipment, or from the carrier's lien. (Aug. 29, 1916, ch. 415, sec. 16, 39 Stat. 541.)

97. Interpleader of conflicting claimants.—If more than one person claim the title or possession of goods, the carrier may require all known claimants to interplead, either as a defense to an action brought against him for nondelivery of the goods or as an original suit, whichever is appropriate. (Aug. 29, 1916, ch. 415, sec. 17, 39 Stat. 541.)

98. Reasonable time for procedure allowed in case of adverse claim.—If some one other than the consignee or the person in possession of the bill has a claim to the title or possession of the goods, and the carrier has information of such claim, the carrier shall be excused from liability for refusing to deliver the goods, either to the consignee or person in possession of the bill or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead. (Aug. 29, 1916, ch. 415, sec. 18, 39 Stat. 541.)

99. Failure to deliver; claim of third person as defense.—Except as provided in the two preceding sections and in section 89 of this chapter, no right or title of a third person, unless enforced by legal process, shall be a defense to an action brought by the consignee of a straight bill or by the holder of an order bill against the carrier for failure to deliver the goods on demand. (Aug. 29, 1916, ch. 415, sec. 19, 39 Stat. 541.)

100. Loading by carrier; counting packages, etc.; contents of bill.—When goods are loaded by a carrier such carrier shall count the packages of goods, if package freight, and ascertain the kind and quantity if bulk freight, and such carrier shall not, in such cases, insert in the bill of lading or in any notice, receipt, contract, rule, regulation, or tariff, " Shipper's weight, load, and count," or other words of like purport, indicating that the goods were loaded by the shipper and the description of them made by him or in case of bulk freight and freight not concealed by packages the description made by him. If so inserted, contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein. (Aug. 29, 1916, ch. 415, sec. 20, 39 Stat. 541.)

101. Loading by shipper; contents of bill; ascertainment of kind and quantity on request.—When package freight or bulk freight is loaded by a shipper and the goods are described in a bill of lading merely by a statement of marks or labels upon them or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind or quality, or in a certain condition, or it is stated in the bill of lading that packages are said to contain goods of a certain kind or quantity or in a certain condition, or that the contents or condition of the contents of packages are unknown, or words of like purport are contained in the bill of lading, such statements, if true, shall not make liable the carrier issuing the bill of lading, although the goods are not of the kind or quantity or in the condition which the marks or labels upon them indicate, or of the kind or quantity or in the condition they were said to be by the consignor. The carrier may also by inserting in the bill of lading the words "Shipper's weight, load, and count," or other words of like purport indicate that the goods were loaded by the shipper and the description of them made by him; and if such statement be true, the carrier shall not be liable for damages caused by the improper loading or by the nonreceipt or by the misdescription of the goods described in the bill of lading: *Provided, however*, Where the shipper of bulk freight installs and maintains adequate facilities for weighing such freight, and the same are available to the carrier, then the carrier, upon written request of such shipper and when given a reasonable opportunity so to do, shall ascertain the kind and quantity of bulk freight within a reasonable time after such written request, and the carriers shall not in such cases insert in the bill of lading the words "Shipper's weight," or other words of like purport, and if so inserted contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein. (Aug. 29, 1916, ch. 415, sec. 21, 39 Stat. 541.)

102. Liability for nonreceipt or misdescription of goods.—If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the receiving of goods and issuing bills of lading therefor for transportation in commerce among the several States and with foreign nations, the carrier shall be liable to (a) the owner of goods covered by a straight bill subject to existing right of stoppage in transitu or (b) the holder of an order bill, who has given value in good faith, relying upon the description therein of the goods, or upon the shipment being made upon the date therein shown, for damages caused by the nonreceipt by the carrier of all or part of the goods upon or prior to the date therein shown, or their failure to correspond with the description thereof in the bill at the time of its issue. (Aug. 29, 1916, ch. 415, sec. 22, 39 Stat. 542; Mar. 4, 1927, ch. 510, sec. 6, 44 Stat. 1450.)

103. Attachment, etc., of goods delivered to carrier.—If goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner, and an order bill is issued for them, they cannot thereafter, while in the possession of the carrier, be attached by garnishment or otherwise or be levied upon under an execution unless the bill be first surrendered to the carrier or its negotiation enjoined. The carrier shall in no such case be compelled to deliver the actual possession of the goods until the bill is surrendered to him or impounded by the court. (Aug. 29, 1916, ch. 415, sec. 23, 39 Stat. 542.)

104. Remedies of creditor of owner of order bill.—A creditor whose debtor is the owner of an order bill shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such bill or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process. (Aug. 29, 1916, ch. 415, sec. 24, 39 Stat. 542.)

105. Lien of carrier.—If an order bill is issued the carrier shall have a lien on the goods therein mentioned for all charges on those goods for freight, storage, demurrage and terminal charges, and expenses necessary for the preservation of the goods or incident to their transportation subsequent to the date of the bill and all other charges incurred in transportation and delivery, unless the bill expressly enumerates other charges for which a lien is claimed. In such case there shall also be a lien for the charges enumerated so far as they are allowed by law and the contract between the consignor and the carrier. (Aug. 29, 1916, ch. 415, sec. 25, 39 Stat. 542.)

106. Liability after sale to satisfy lien, etc.—After goods have been lawfully sold to satisfy a carrier's lien, or because they have not been claimed, or because they are perishable or hazardous, the carrier shall not thereafter be liable for failure to deliver the goods themselves to the consignee or owner of the goods, or to a holder of the bill given for the goods when they were shipped, even if such bill be an order bill. (Aug. 29, 1916, ch. 415, sec. 26, 39 Stat. 542.)

107. Negotiation of order bill by delivery.—An order bill may be negotiated by delivery where, by the terms of the bill, the carrier undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the bill has indorsed it in blank. (Aug. 29, 1916, ch. 415, sec. 27, 39 Stat. 542.)

108. Negotiation of order bill by indorsement.—An order bill may be negotiated by the indorsement of the person to whose order the goods are deliverable by the tenor of the bill. Such indorsement may be in blank or to a specified person. If indorsed to a specified person, it may be negotiated again by the indorsement of such person in blank or to another specified person. Subsequent negotiations may be made in like manner. (Aug. 29, 1916, ch. 415, sec. 28, 39 Stat. 543.)

109. Transfer of bill by delivery; negotiation of straight bill.—A bill may be transferred by the holder by delivery, accompanied with an agreement, express or implied, to transfer the title of the bill or to the goods represented thereby. A straight bill cannot be negotiated free from existing equities, and the indorsement of such a bill gives the transferee no additional right. (Aug. 29, 1916, ch. 415, sec. 29, 39 Stat. 543.)

110. Negotiation of order bill by person in possession.—An order bill may be negotiated by any person in possession of the same, however such possession may have been acquired, if by the terms of the bill the carrier undertakes to deliver the goods to the order of such person, or if at the time of negotiation the bill is in such form that it may be negotiated by delivery. (Aug. 29, 1916, ch. 415, sec. 30, 39 Stat. 543.)

111. Title and right acquired by transferee of order bill.—A person to whom an order bill has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the bill to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the consignee and consignor had or had power to convey to a purchaser in good faith for value; and

(b) The direct obligation of the carrier to hold possession of the goods for him according to the terms of the bill as fully as if the carrier had contracted directly with him. (Aug. 29, 1916, ch. 415, sec. 31, 39 Stat. 543.)

112. Rights of transferee of bill without negotiation; notice to carrier.—A person to whom a bill has been transferred, but not negotiated, acquires thereby as against the transferor the title to the goods, subject to the terms of any agreement with the transferor. If the bill is a straight bill such person also acquires the right to notify the carrier of the transfer to him of such bill and thereby to become the direct obligee of whatever obligations the carrier owed to the transferor of the bill immediately before the notification.

Prior to the notification of the carrier by the transferor or transferee of a straight bill the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by garnishment or by attachment or execution upon the goods by a creditor of the transferor, or by a notification to the carrier by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

A carrier has not received notification within the meaning of this section unless an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time, with the exercise of reasonable diligence, to communicate with the agent or agents having actual possession or control of the goods. (Aug. 29, 1916, ch. 415, sec. 32, 39 Stat. 543.)

113. Compelling indorsement of order bill transferred by delivery.—Where an order bill is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced. (Aug. 29, 1916, ch. 415, sec. 33, 39 Stat. 543.)

114. Warranties arising out of transfer of bill.—A person who negotiates or transfers for value a bill by indorsement or delivery, unless a contrary intention appears, warrants—

(a) That the bill is genuine;

(b) That he has a legal right to transfer it;

(c) That he has knowledge of no fact which would impair the validity or worth of the bill;

(d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied if the contract of the parties had been to transfer without a bill the goods represented thereby. (Aug. 29, 1916, ch. 415, sec. 34, 39 Stat. 543.)

115. Liability of indorser of bill.—The indorsement of a bill shall not make the indorser liable for any failure on the part of the carrier or previous indorsers of the bill to fulfill their respective obligations. (Aug. 29, 1916, ch. 415, sec. 35, 39 Stat. 544.)

116. Warranties by mortgagee, etc., receiving payment of bill.—A mortgagee or pledgee or other holder of a bill for security who in good faith demands or receives payment of the debt for which such bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or warrant the genuineness of such bill or the quantity or quality of the goods therein described. (Aug. 29, 1916, ch. 415, sec. 36, 39 Stat. 544.)

117. Negotiation of bill; impairment of validity.—The validity of the negotiation of a bill is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the bill was deprived of the possession of the same by fraud, accident, mistake, duress, loss, theft, or conversion, if the person to whom the bill was negotiated, or a person to whom the bill was subsequently negotiated, gave value therefor in good faith, without notice of the breach of duty, or fraud, accident, mistake, duress, loss, theft, or conversion. (Aug. 29, 1916, ch. 415, sec. 37, 39 Stat. 544.)

118. Negotiation of bill by seller, mortgagor, etc., to person without notice.—Where a person, having sold, mortgaged, or pledged goods which are in a carrier's possession and for which an order bill has been issued, or having sold, mortgaged, or pledged the order bill representing such goods, continues in possession of the order bill the subsequent negotiation thereof by that person under any sale, pledge, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, shall have the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation. (Aug. 29, 1916, ch. 415, sec. 38, 39 Stat. 544.)

119. Rights of bona fide purchaser as affected by seller's lien or right of stoppage.—Where an order bill has been issued for goods no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right of stoppage in transitu. Nor shall the carrier be obliged to deliver or justified in delivering the goods to an unpaid seller unless such bill is first surrendered for cancellation. (Aug. 29, 1916, ch. 415, sec. 39, 39 Stat. 544.)

120. Rights of mortgagee or lien holder; limitation.—Except as provided in the preceding section, nothing in this chapter shall limit the rights and remedies of a mortgagee or lien holder whose mortgage or lien on goods would be valid, apart from this chapter, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien and obtained possession of them. (Aug. 29, 1916, ch. 415, sec. 40, 39 Stat. 544.)

121. Offenses; penalty.—Any person who, knowingly or with intent to defraud, falsely makes, alters, forges, counterfeits, prints or photographs any bill of lading purporting to represent goods received for shipment among the several States or with foreign nations, or with like intent utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed or photographed bill of lading, knowing it to be falsely altered, forged, counterfeited, falsely printed or photographed, or aids in making, altering, forging, counterfeiting, printing or photographing, or uttering or publishing the same, or issues or aids in issuing or procuring the issue of, or negotiates or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter, or who, with intent to defraud, violates, or fails to comply with, or aids in any violation of, or failure to comply with any provision of this chapter, shall be guilty of a misdemeanor, and, upon conviction, shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding $5,000, or both. (Aug. 29, 1916, ch. 415, sec. 41, 39 Stat. 544.)

122. Terms defined.—In this chapter, unless the context of subject matter otherwise requires—

"Action" includes counterclaim, set-off, and suit in equity.

"Bill" means bill of lading governed by this chapter.

"Consignee" means the person named in the bill as the person to whom delivery of the goods is to be made.

"Consignor" means the person named in the bill as the person from whom the goods have been received for shipment.

"Goods" means merchandise or chattels in course of transportation or which have been or are about to be transported.

"Holder" of a bill means a person who has both actual possession of such bill and a right of property therein.

"Order" means an order by indorsement on the bill.

"Person" includes a corporation or partnership, or two or more persons having a joint or common interest.

To "purchase" includes to take as mortgagee and to take as pledgee.

"State" includes any Territory, District, insular possession, or isthmian possession. (Aug. 29, 1916, ch. 415, sec. 42, 39 Stat. 545.)

NOTE.—Section 123, relative to the retroactive effect of the chapter, is omitted as obsolete.

124. Invalidity of part of chapter.—The provisions and each part thereof and the sections and each part thereof of this chapter are independent and severable, and the declaring of any provision or part thereof, or provisions or part thereof, or section or part thereof, or sections or part thereof, unconstitutional shall not impair or render unconstitutional any other provision or part thereof or section or part thereof. (Aug. 29, 1916, ch. 415, sec. 44, 39 Stat. 545.)

CHAPTER 6.—AIR COMMERCE

Sections 171 to 184. Air Commerce Act of 1926.—(May 20, 1926, ch. 344, 44 Stat. 568.)

NOTE.—The Act above cited was entitled "An Act to encourage and regulate the use of aircraft in commerce, and for other purposes."

The term "interstate or foreign air commerce", as defined in section 171, means "air commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through the air space over any place outside thereof; or wholly within the air space over any Territory or possession or the District of Columbia."

Section 176 provides in part as follows: "The Congress hereby declares that the Government of the United States has, to the exclusion of all foreign nations, complete sovereignty of the airspace over the lands and waters of the United States, including the Canal Zone. Aircraft a part of the armed forces of any foreign nation shall not be navigated in the United States, including the Canal Zone, except in accordance with an authorization granted by the Secretary of State."

The term "United States", when used in a geographical sense, is defined in section 179 to mean "the territory comprising the several States, Territories, possessions, and the District of Columbia (including the territorial waters thereof), and the overlying airspace; but shall not include the Canal Zone."

UNITED STATES CODE, TITLE 50

WAR

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CHAPTER 4.—ESPIONAGE

Section 31. Unlawfully obtaining or permitting to be obtained information affecting national defense.—(a) Whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information to be obtained is to be used to the injury of the United States, or to the advantage of any foreign nation, goes upon, enters, flies over, or otherwise obtains information concerning any vessel, aircraft, work of defense, navy yard, naval station, submarine base, coaling station, fort, battery, torpedo station, dockyard, canal, railroad, arsenal, camp, factory, mine, telegraph, telephone, wireless, or signal station, building, office, or other place connected with the national defense, owned or constructed, or in progress of construction by the United States or under the control of the United States, or of any of its officers or agents, or within the exclusive jurisdiction of the United States, or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use in time of war are being made, prepared, repaired, or stored, under any contract or agreement with the United States, or with any person on behalf of the United States, or otherwise on behalf of the United States, or any prohibited place within the meaning of section 36 of this title; or (b) whoever for the purpose aforesaid, and with like intent or reason to believe, copies, takes, makes, or obtains, or attempts, or induces or aids another to copy, take, make, or obtain, any sketch, photograph, photographic negative, blue print, plan, map, model, instrument, appliance, document, writing, or note of anything connected with the national defense; or (c) whoever, for the purpose aforesaid, receives or obtains or agrees or attempts or induces or aids another to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, map, model, instrument, appliance, or note, of anything connected with the national defense, knowing or having reason to believe, at the time he receives or obtains, or agrees or attempts or induces or aids another to receive or obtain it, that it has been or will be obtained, taken, made or disposed of by any person contrary to the provisions of this title; or (d) whoever, lawfully or unlawfully having possession of, access to, control over, or being intrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, map, model, instrument, appliance, or note relating to the national defense, willfully communicates or transmits or attempts to communicate or transmit the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it; or (e) whoever, being intrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, map, model, note, or information, relating to the national defense, through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, shall be punished by a fine of not more than $10,000, or by imprisonment for not more than two years or both. (June 15, 1917, ch. 30, Title I, sec. 1, 40 Stat. 217.)

Cross-References

Term "United States" as including Canal Zone, see section 40 of this title.

Jurisdiction of district court in Canal Zone over offenses, see section 39 of this title.

32. Unlawfully disclosing information affecting national defense.—Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to, or aids or induces another to, communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by imprisonment for not more than twenty years: *Provided*, That whoever shall violate the provisions of subsection (a) of this section in time of war shall be punished by death or by imprisonment for not more than thirty years; and (b) whoever, in time of war, with intent that the same shall be communicated to the enemy, shall collect, record, publish, or communicate, or attempt to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the armed forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or by imprisonment for not more than thirty years. (June 15, 1917, ch. 30, title I, sec. 2, 40 Stat. 218.)

33. Seditious or disloyal acts or words in time of war.—Whoever, when the United States is at war, shall willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies and whoever, when the United States is at war, shall willfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or shall willfully obstruct the recruiting or enlistment service of the United States, to the injury of the service of the United States, shall be punished by a fine of not more than $10,000 or imprisonment for not more than twenty years, or both. (June 15, 1917, ch. 30, title I, sec. 3, 40 Stat. 219; Mar. 3, 1921, ch. 136, 41 Stat. 1359.)

34. Conspiracy to violate preceding sections.—If two or more persons conspire to violate the provisions of sections 32 or 33 of this title, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as in said sections provided in the case of the doing of the act the accomplishment of which is the object of such conspiracy. Except as above provided conspiracies to commit offenses under this chapter shall be punished as provided by section 88 of title 18. (June 15, 1917, ch. 30, title I, sec. 4, 40 Stat. 219.)

35. Harboring or concealing violators of law.—Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe or suspect, has committed, or is about to commit, an offense under this chapter shall be punished by a fine of not more than $10,000 or by imprisonment for not more than two years, or both. (June 15, 1917, ch. 30, title I, sec. 5, 40 Stat. 219.)

36. Designation of prohibited places by proclamation.—The President in time of war or in case of national emergency may by proclamation designate any place other than those set forth in subsection (a) of section 31 of this title in which anything for the use of the Army or Navy is being prepared or constructed or stored at a prohibited place for the purposes of this chapter: *Provided*, That he shall determine that information with respect thereto would be prejudicial to the national defense. (June 15, 1917, ch. 30, title I, sec. 6, 40 Stat. 219.)

37. Places subject to provisions of chapter.—The provisions of this chapter shall extend to all Territories, possessions, and places subject to the jurisdiction of the United States whether or not contiguous thereto, and offenses under this chapter when committed upon the high seas or elsewhere within the admiralty and maritime jurisdiction of the United States and outside the territorial limits thereof shall be punishable hereunder. (June 15, 1917, ch. 30, title I, sec. 8, 40 Stat. 219.)

38. Jurisdiction of courts-martial and military commissions.—Nothing contained in this chapter or chapter 12 of this title shall be deemed to limit the jurisdiction of the general courts-martial, military commissions, or naval courts-martial under chapter 36 of title 10 and chapter 21 of title 34. (June 15, 1917, ch. 30, title I, sec. 7, 40 Stat. 219.)

39. Jurisdiction of courts of Canal Zone and Philippine Islands of offenses on high seas.—The several courts of first instance in the Philippine Islands and the district court of the Canal Zone shall have jurisdiction of offenses under this chapter and chapter 12 of this title committed within their respective districts, and concurrent jurisdiction with the district courts of the United States of offenses under this chapter and chapter 12 of this title committed upon the high seas, and of conspiracies to commit such offenses, as defined by section 88 of title 18, and the provisions of said section, for the purpose of this chapter and chapter 12 of this title, are hereby extended to the Philippine Islands, and to the Canal Zone. In such cases the district attorneys of the Philippine Islands and of the Canal Zone shall have the powers and perform the duties provided in this chapter for United States attorneys. (June 15, 1917, ch. 30, title XIII, sec. 2, 40 Stat. 231.)

40. "United States" defined.—The term "United States" as used in this chapter and chapter 12 of this title includes the Canal Zone and all territory and waters, continental or insular, subject to the jurisdiction of the United States. (June 15, 1917, ch. 30, title XIII, sec. 1, 40 Stat. 231.)

41. "Foreign government" defined.—The words "foreign government," as used in this chapter of this title, shall be deemed to include any government, faction, or body of insurgents within a country with which the United States is at peace, which government, faction, or body of insurgents may or may not have been recognized by the United States as a government. (June 15, 1917, ch. 30, title VIII, sec. 4, 40 Stat. 226.)

42. Effect of partial invalidity of chapter.—If any clause, sentence, paragraph, or part of this chapter or of chapter 12 of this title shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (June 15, 1917, ch. 30, title XIII, sec. 4, 40 Stat. 231.)

CHAPTER 6.—WILLFUL DESTRUCTION, AND SO FORTH, OF WAR MATERIAL

Section 101. Definition of terms.—The words " war material ", as used herein, shall include arms, armament, ammunition, livestock, stores of clothing, food, foodstuffs, or fuel; and shall also include supplies, munitions, and all other articles of whatever description, and any part or ingredient thereof, intended for, adapted to, or suitable for the use of the United States, or any associate nation, in connection with the conduct of the war.

The words " war premises ", as used herein, shall include all buildings, grounds, mines, or other places wherein such war material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other military or naval stations of the United States, or any associate nation.

The words " war utilities ", as used herein, shall include all railroads, railways, electric lines, roads of whatever description, railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, or aircraft, or any other means of transportation whatsoever, whereon or whereby such war material or any troops of the United States, or of any associate nation, are being or may be transported either within the limits of the United States or upon the high seas; and all dams, reservoirs, aqueducts, water and gas mains and pipes, structures and buildings, whereby or in connection with which water or gas is being furnished, or may be furnished, to any war premises or to the military or naval forces of the United States, or any associate nation, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply water, light, heat, power, or facilities of communication to any war premises or to the military or naval forces of the United States, or any associate nation. The words " United States " shall include the Canal Zone and all territory and waters, continental and insular, subject to the jurisdiction of the United States.

The words " associate nation ", as used in this chapter, shall be deemed to mean any nation at war with any nation with which the United States is at war. (Apr. 20, 1918, ch. 59, sec. 1, 40 Stat. 533.)

102. Destroying or injuring war material in time of war.—When the United States is at war, whoever, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war, or whoever, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war, shall willfully injure or destroy, or shall attempt to so injure or destroy, any war material, war premises, or war utilities, as herein defined, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than thirty years, or both. (Apr. 20, 1918, ch. 59, sec. 2, 40 Stat. 534.)

103. Making or causing war material to be made in defective manner.—When the United States is at war, whoever, with intent to injure, interefere with, or obstruct the United States or any associate nation in preparing for or carrying on the war, or whoever, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war, shall willfully make or cause to be made in a defective manner, or attempt to make or cause to be made in a defective manner, any war material, as herein defined, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such war material, as herein defined, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than thirty years, or both. (Apr. 20, 1918, ch. 59, sec. 3, 40 Stat. 534.)

CHAPTER 12.—VESSELS IN TERRITORIAL WATERS OF UNITED STATES

Cross-References

Effect of partial invalidity of this chapter, see section 42 of this title.

Jurisdiction of courts-martial and military commissions, see section 38 of this title.

Jurisdiction of Canal Zone district court of offenses under this chapter, see section 39 of this title.

Section 191. Secretary of Treasury and Governor of Canal Zone authorized to regulate anchorage, movement, and so forth, of vessel.—Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, the Secretary of the Treasury may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, may inspect such vessel at any time, place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of the rights and obligations of the United States, may take, by and with the consent of the President, for such purposes, full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by him to go or remain on board thereof.

Within the territory and waters of the Canal Zone the Governor of the Panama Canal, with the approval of the President, shall exercise all the powers conferred by this section on the Secretary of the Treasury. (June 15, 1917, ch. 30, Title II, sec. 1, 40 Stat. 220.)

192. Seizure and forfeiture of vessels for failure to observe regulations.—If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given by the Secretary of the Treasury or the Governor of the Panama Canal under the provisions of this title, or obstructs or interferes with the exercise of any power conferred by this title, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be fined not more than $10,000, or imprisoned not more than two years, or both. (June 15, 1917, ch. 30, title II, sec. 2, 40 Stat. 220.)

193. Destruction of, injury to, or improper use of vessels.—It shall be unlawful for the owner or master or any other person in charge or command of any private vessel, foreign or domestic, or for any member of the crew or other person, within the territorial waters of the United States, willfully to cause or permit the destruction or injury of such vessel or knowingly to permit said vessel to be used as a place of resort for any person conspiring with another or preparing to commit any offense against the United States, or in violation of the treaties of the United States or of the obligations of the United States under the law of nations, or to defraud the United States, or knowingly to permit such vessels to be used in violation of the rights and obligations of the United States under the law of nations; and in case such vessels shall be so used, with the knowledge of the owner or master or other person in charge or command thereof, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and whoever violates this section shall be fined not more than $10,000, or imprisoned not more than two years, or both. (June 15, 1917, ch. 30, title II, sec. 3, 40 Stat. 220.)

194. Employment of Army and Navy to enforce provisions of chapter.—The President may employ such part of the land or naval forces of the United States as he may deem necessary to carry out the purpose of this chapter. (June 15, 1917, ch. 30, title II, sec. 4, 40 Stat. 220.)

PARALLEL REFERENCE TABLES

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PARALLEL REFERENCE TABLES

1. THE CIVIL CODE (TITLE 3)

This table shows where the sections of title 3, the Civil Code, are to be found in act of February 27, 1933 (ch. 128, 47 Stat. 1124), and in the Civil Code of California.

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161	135	--------
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205	166c	240
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207	166e	242
208	166f	246
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210	168	251
211	169	252
212	169a	253
213	169b	254
214	169c	255
215	169d	256
216	169e	257
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245	181c	--------
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258	189	663
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386	245	985
391	246	--------
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412	249	1019
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416	253	1028
417	254	1029
418	255	1030

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419	256	1031	544	334	1298	643	412	1396	802	490	1550
420	257	1032	545	335	1299	644	413	1397	811	491	1556
421	258	1033	546	336	1300	645	414	1398	812	492	1557
431	259	1039	547	337	1300a	646	415	1399	813	493	1558
432	260	1040	548	338	1301	647	416	1400	814	494	1559
441	261	1044	549	339	1302	648	417	1401	821	495	1565
442	262	1045	550	340	1303	649	418	1402	822	496	1566
443	263	1046	551	341	1304	650	419	1403	823	497	1567
451	264	1052	552	342	1305	651	420	1404	824	498	1568
452	265	1135	553	343	1374	652	421	--------	825	499	1569
453	266	1136	554	344	1306	653	422	1408	826	500	1570
454	267	1053	555	345	1307	654	423	1409	827	501	1571
455	268	1054	556	346	1308	661	424	1427	828	502	1572
456	269	1055	557	347	1309	662	425	1428	829	503	1573
457	270	1056	558	348	1310	671	426	1429	830	504	1574
458	271	1057	559	349	1313	681	427	1430	831	505	1575
459	272	1059	560	350	1375	682	428	1431	832	506	1576
461	273	1066	571	351	1317	683	429	1432	833	507	1577
462	274	1067	572	352	1318	691	430	1434	834	508	1578
463	275	1068	573	353	1319	692	431	1435	835	509	1579
464	276	1069	574	354	1320	693	432	1436	836	510	1580
465	277	1070	575	355	1321	694	433	1437	837	511	1581
466	278	1071	576	356	1322	695	434	1438	838	512	1582
471	279	1083	577	357	1323	696	435	1439	839	513	1583
472	280	1084	578	358	1324	697	436	1440	840	514	1584
481	281	1146	579	359	1325	698	437	1441	841	515	1585
482	282	1147	580	360	1326	699	438	1442	842	516	1586
483	283	1148	581	361	1327	701	439	1448	843	517	1587
484	284	1149	582	362	1328	702	440	1449	844	518	1588
485	285	1150	583	363	1330	703	441	1450	845	519	1589
486	286	1151	584	364	1331	704	442	1451	851	520	1595
487	287	1152	585	365	1333	711	443	1457	852	521	1596
488	288	1153	586	366	1334	712	444	1458	853	522	1597
491	289	1180	587	367	1335	713	445	1459	854	523	1598
492	290	1182	588	368	1336	721	446	1473	855	524	1599
493	291	1183	589	369	1337	722	447	1474	861	525	1605
494	292	--------	590	370	1339	723	448	1475	862	526	1606
495	293	1185	591	371	1340	724	449	1476	863	527	1607
496	294	1188	592	372	1341	725	450	1477	864	528	1608
497	295	1189	593	373	1342	726	451	1478	865	529	1609
498	296	1190	594	374	1343	727	452	1479	866	530	1610
499	297	1192	595	375	1344	731	453	1485	867	531	1611
500	298	1193	596	376	1345	732	454	1486	868	532	1612
501	299	1195	597	377	1346	733	455	1487	869	533	1613
502	300	1196	598	378	1347	734	456	1488	870	534	1614
503	301	1197	599	379	1348	735	457	1489	871	535	1615
504	302	1198	600	380	1349	736	458	1490	881	536	1619
505	303	1199	601	381	1350	737	459	1491	882	537	1620
506	304	1200	602	382	1351	738	460	1492	883	538	1621
507	305	1201	603	383	1375	739	461	1493	884	539	1622
508	306	1202	611	384	1357	740	462	1494	885	540	1623
509	307	1203	612	385	1359	741	463	1495	886	541	1624
510	308	1204	613	386	1360	742	464	1496	887	542	1625
511	309	1205	614	387	1361	743	465	1497	888	543	1626
512	310	--------	615	388	1362	744	466	1498	889	544	1627
521	311	1270	616	389	1363	745	467	1499	890	545	1629
522	312	1272	617	390	1365	746	468	1500	901	546	1635
523	313	1273	618	391	1366	747	469	1501	902	547	1636
524	314	1274	619	392	1367	748	470	1502	903	548	1637
525	315	1276	620	393	1368	749	471	1503	904	549	1638
526	316	1277	621	394	1369	750	472	1504	905	550	1639
527	317	1278	622	395	1370	751	473	1505	906	551	1640
528	318	1279	623	396	1371	761	474	1511	907	552	1641
529	319	1280	624	397	1372	762	475	1512	908	553	1642
530	320	1282	625	398	1373	763	476	1514	909	554	1643
531	321	1283	626	399	1377	764	477	1515	910	555	1644
532	322	--------	631	400	1383	771	478	1521	911	556	1645
533	323	--------	632	401	1384	772	479	1522	912	557	1646
534	324	1287	633	402	1386	773	480	1523	913	558	1647
535	325	1288	634	403	1387	774	481	1524	914	559	1648
536	326	1289	635	404	1388	781	482	1530	915	560	1649
537	327	1290	636	405	1389	782	483	1531	916	561	1650
538	328	1291	637	406	1390	783	484	1532	917	562	1651
539	329	1292	638	407	1391	784	485	1533	918	563	1652
540	330	1293	639	408	1392	791	486	1541	919	564	1653
541	331	1295	640	409	1393	792	487	1542	920	565	1654
542	332	1296	641	410	1394	793	488	1543	921	566	1655
543	333	1297	642	411	1395	801	489	1549	922	567	1656

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923	568	1657	1030	646	--------	1131	724	1851	1237	803	1890
924	569	1659	1031	647	--------	1132	725	1852	1238	804	1891
925	570	1660	1032	648	--------	1133	726	1853	1239	805	1892
926	571	1661	1033	649	--------	1134	727	1854	1240	806	1893
931	572	1667	1034	650	--------	1135	728	1855	1241	807	1894
932	573	1668	1035	651	--------	1136	729	1856	1242	808	1895
933	574	1670	1036	652	--------	1137	730	1857	1243	809	1896
934	575	1671	1037	653	--------	1141	731	--------	1251	810	1902
935	576	1673	1038	654	--------	1142	732	--------	1252	811	1903
936	577	1675	1039	655	--------	1143	733	--------	1253	812	1904
937	578	1676	1040	656	--------	1144	734	--------	1254	813	1905
941	579	1682	1041	657	--------	1145	735	--------	1255	814	1906
951	580	1688	1042	658	--------	1146	736	--------	1261	815	1912
952	581	1689	1043	659	--------	1147	737	--------	1262	816	1913
953	582	1690	1044	660	--------	1148	738	--------	1263	817	1914
954	583	1691	1045	661	--------	1149	739	--------	1264	818	1915
961	584	1697	1046	662	--------	1150	740	--------	1265	819	1916
962	585	1698	1047	663	--------	1151	741	--------	1266	820	--------
963	586	1699	1048	664	--------	1152	742	--------	1267	821	--------
964	587	1700	1049	665	--------	1153	743	--------	1268	822	--------
965	588	1701	1050	666	--------	1154	744	--------	1269	823	--------
971	589	1708	1051	667	--------	1155	745	--------	1271	824	1925
972	590	1709	1052	668	--------	1156	746	--------	1272	825	1926
973	591	1710	1053	669	--------	1157	747	--------	1273	826	1927
974	592	1711	1054	670	--------	1158	748	--------	1274	827	1928
975	593	1712	1055	671	--------	1159	749	--------	1275	828	1929
976	594	1713	1056	672	--------	1160	750	--------	1276	829	1930
977	595	1714	1057	673	--------	1161	751	--------	1277	830	1931
978	596	1715	1061	674	--------	1162	752	--------	1278	831	1932
981	597	--------	1062	675	--------	1163	753	--------	1279	832	1933
982	598	--------	1063	676	--------	1164	754	--------	1280	833	1934
983	599	--------	1064	677	--------	1165	755	--------	1281	834	1935
984	600	--------	1065	678	--------	1166	756	--------	1282	835	1955
985	601	--------	1066	679	--------	1167	757	--------	1283	836	1956
986	602	--------	1067	680	--------	1168	758	--------	1284	837	1957
987	603	--------	1068	681	--------	1169	759	--------	1285	838	1958
988	604	--------	1069	682	--------	1170	760	--------	1291	839	--------
989	605	--------	1070	683	--------	1171	761	--------	1292	840	--------
990	606	--------	1071	684	--------	1172	762	--------	1301	841	1965
991	607	--------	1072	685	--------	1173	763	--------	1311	842	1969
992	608	--------	1073	686	--------	1174	764	--------	1312	843	1970
993	609	--------	1074	687	--------	1175	765	--------	1313	844	1971
994	610	--------	1075	688	--------	1176	766	--------	1321	845	1975
995	611	--------	1076	689	--------	1177	767	--------	1322	846	1976
996	612	--------	1077	690	--------	1178	768	--------	1323	847	1977
997	613	--------	1078	691	--------	1179	769	--------	1324	848	1978
998	614	--------	1079	692	--------	1180	770	--------	1325	849	1979
999	615	--------	1080	693	--------	1181	771	--------	1326	850	1981
1000	616	--------	1081	694	--------	1182	772	--------	1327	851	1982
1001	617	--------	1082	695	--------	1183	773	--------	1328	852	1983
1002	618	--------	1083	696	--------	1184	774	--------	1329	853	1984
1003	619	--------	1084	697	--------	1185	775	--------	1330	854	1985
1004	620	--------	1085	698	--------	1186	776	--------	1331	855	1986
1005	621	--------	1091	699	1813	1187	777	--------	1332	856	1987
1006	622	--------	1092	700	1814	1188	778	--------	1333	857	1988
1007	623	--------	1093	701	1815	1189	779	--------	1334	858	1990
1008	624	--------	1094	702	1816	1190	780	--------	1335	859	1991
1009	625	--------	1095	703	1817	1191	781	--------	1336	860	1992
1010	626	--------	1096	704	1818	1192	783	--------	1341	861	1996
1011	627	--------	1101	705	1822	1193	784	--------	1342	862	1997
1012	628	--------	1102	706	1823	1201	785	1861	1343	863	1998
1013	629	--------	1103	707	1824	1202	786	1862	1344	864	1999
1014	630	--------	1104	708	1825	1211	787	1864	1345	865	2000
1015	631	--------	1105	709	1826	1212	788	1865	1346	866	2001
1016	632	--------	1106	710	1827	1213	789	1866	1347	867	2002
1017	633	--------	1107	711	1828	1214	790	1867	1348	868	2003
1018	634	--------	1111	712	1833	1215	791	1868	1351	869	2009
1019	635	--------	1112	713	1834	1216	792	1869	1352	870	2010
1020	636	--------	1113	714	1835	1217	793	1870	1353	871	2011
1021	637	--------	1114	715	1836	1218	794	1871	1354	872	2012
1022	638	--------	1115	716	1837	1219	795	1872	1355	873	2014
1023	639	--------	1116	717	1838	1221	796	1878	1356	874	2015
1024	640	--------	1117	718	1839	1231	797	1884	1361	875	2019
1025	641	--------	1118	719	1840	1232	798	1885	1362	876	2020
1026	642	--------	1121	720	1844	1233	799	1886	1363	877	2021
1027	643	--------	1122	721	1845	1234	800	1887	1364	878	2022
1028	644	--------	1123	722	1846	1235	801	1888	1371	879	2026
1029	645	--------	1124	723	1847	1236	802	1889	1372	880	2027

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1373	881	2028	1553	1012	2252	1723	1090	2403	1901	1170	2561
1374	882	2029	1554	1013	2253	1724	1091	2404	1902	1171	2562
1375	883	2030	1555	1014	2254	1725	1092	2405	1903	1172	2563
1381	884	2078	1561	1015	2258	1726	1093	2406	1904	1173	2564
1391	885	2085	1562	1016	2259	1731	1094	2410	1905	1174	2565
1392	886	2086	1563	1017	2260	1732	1095	2411	1906	1175	2566
1393	887	--------	1564	1018	2261	1733	1096	2412	1907	1176	2567
1394	888	2089	1565	1019	2262	1734	1097	2413	1908	1177	2568
1395	889	2090	1566	1020	2263	1741	1098	2417	1909	1178	2569
1401	890	2096	1571	1021	2267	1742	1099	2418	1910	1179	2570
1411	891	2100	1572	1022	2268	1751	1100	2424	1911	1180	2571
1412	892	2101	1573	1023	2269	1761	1101	2428	1912	1181	2572
1413	893	2102	1581	1024	2273	1762	1102	2429	1913	1182	2573
1414	894	2103	1582	1025	2274	1763	1103	2430	1914	1183	2574
1415	895	2104	1583	1026	2275	1764	1104	2431	1915	1184	2575
1421	896	2110	1591	1027	2279	1771	1105	2435	1916	1185	2576
1431	897	2114	1592	1028	2280	1772	1106	2436	1917	1186	2577
1432	898	2115	1593	1029	2281	1773	1107	2437	1918	1187	2578
1433	899	2116	1594	1030	2282	1774	1108	2438	1919	1188	2579
1434	900	2118	1595	1031	2283	1781	1109	2442	1920	1189	2580
1435	901	2120	1601	1032	2287	1782	1110	2443	1921	1190	2581
1436	902	2121	1602	1033	2288	1783	1111	2444	1922	1191	2582
1441	903	--------	1603	1034	2289	1784	1112	2445	1923	1192	2583
1451	946	2136	1611	1035	2295	1791	1113	2449	1931	1193	2586
1452	947	2137	1612	1036	2296	1792	1114	2450	1932	1194	2587
1453	948	2138	1613	1037	2297	1793	1115	2451	1933	1195	2588
1454	949	2139	1614	1038	2298	1794	1116	2452	1934	1196	2589
1455	950	2140	1615	1039	2299	1795	1117	2453	1935	1197	2590
1456	951	2141	1616	1040	2300	1796	1118	2454	1936	1198	2591
1457	952	2142	1621	1041	2304	1801	1119	2458	1937	1199	2592
1458	953	2143	1622	1042	2305	1802	1120	2459	1938	1200	2593
1459	954	2144	1623	1043	2306	1803	1121	2460	1939	1201	2594
1461	955	2162	1624	1044	2307	1804	1122	2461	1940	1202	2595
1471	956	2168	1625	1045	2308	1805	1123	2462	1941	1203	2596
1472	957	2169	1626	1046	2309	1811	1124	2477	1942	1204	2597
1473	961	2173	1627	1047	2311	1812	1125	2478	1943	1205	2598
1474	962	2174	1628	1048	2310	1813	1126	2479	1944	1206	2599
1475	963	2175	1629	1049	2312	1814	1127	2480	1951	1207	2603
1476	964	2176	1630	1050	2313	1815	1128	2481	1952	1208	2604
1477	965	2177	1631	1051	2314	1816	1129	2482	1953	1209	2605
1481	967	2182	1632	1052	2315	1817	1130	2485	1954	1210	2606
1482	971	2186	1633	1053	2316	1821	1131	2489	1955	1211	2607
1483	972	2187	1634	1054	2317	1822	1132	2490	1956	1212	2608
1484	973	2188	1635	1055	2318	1823	1133	2491	1957	1213	2609
1485	974	2190	1636	1056	2319	1824	1134	2492	1958	1214	2610
1491	975	2194	1637	1057	2320	1825	1135	2493	1959	1215	2611
1492	976	2195	1638	1058	2321	1826	1136	2494	1960	1216	2612
1493	977	2196	1639	1059	2322	1827	1137	2495	1971	1218	2617
1494	978	2200	1640	1060	2323	1828	1138	2496	1972	1219	2618
1495	979	2201	1641	1061	2325	1831	1139	2500	1973	1220	2619
1496	980	2202	1642	1062	2326	1832	1140	2501	1974	1221	2620
1497	981	2203	1651	1063	2330	1833	1141	2502	1975	1222	2621
1501	986	2215	1652	1064	2331	1834	1142	2503	1976	1223	2622
1502	987	2216	1653	1065	2332	1841	1143	2507	1981	1224	2626
1503	988	2217	1654	1066	2333	1842	1144	2508	1982	1225	2627
1504	989	2218	1655	1067	2334	1843	1145	2509	1983	1226	2628
1505	990	2219	1656	1068	2335	1844	1146	2510	1984	1227	2629
1506	991	2220	1657	1069	2336	1851	1147	2527	1991	1228	2633
1507	992	2221	1658	1070	2337	1861	1148	2531	1992	1229	2633a
1508	993	2222	1659	1071	2338	1862	1149	2532	1993	1230	2634
1509	994	2223	1660	1072	2339	1863	1151	2534	1994	1231	2635
1510	995	2224	1671	1073	2342	1871	1152	2538	1995	1232	2636
1521	996	2228	1672	1074	2343	1872	1153	2539	1996	1233	2637
1522	997	2229	1673	1075	2344	1873	1154	2540	2001	1234	2641
1523	998	2230	1674	1076	2345	1874	1155	2541	2002	1235	2642
1524	999	2231	1681	1077	2349	1875	1156	2542	2011	1236	2646
1525	1000	2232	1682	1078	2350	1881	1157	2546	2012	1237	2647
1526	1001	2233	1683	1079	2351	1882	1158	2547	2013	1238	2648
1527	1002	2234	1691	1080	2355	1883	1159	2548	2014	1239	2649
1528	1003	2235	1692	1081	2356	1884	1160	2549	2021	1240	2753
1529	1004	2236	1701	1082	2367	1885	1161	2550	2022	1241	2754
1530	1005	2237	1702	1083	2368	1886	1162	2551	2023	1242	2755
1531	1006	2238	1703	1084	2369	1887	1163	2552	2024	1243	2756
1532	1007	2239	1711	1085	2395	1888	1164	2553	2025	1244	2757
1541	1008	2243	1712	1086	2396	1889	1165	2554	2031	1245	2762
1542	1009	2244	1713	1087	2397	1890	1166	2555	2032	1246	2763
1551	1010	2250	1721	1088	2401	1891	1168	2557	2033	1247	2764
1552	1011	2251	1722	1089	2402	1892	1169	2558	2034	1248	2765

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2035	1249	2766
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2083	1269	2801
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2092	1272	2807
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2094	1274	2809
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2143	1294	2846
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2147	1298	2850
2151	1299	2854
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2163	1302	2860
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2165	1304	2862
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2167	1306	2864
2168	1307	2865
2169	1308	2866
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2173	1311	2874
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2182	1316	2882
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2195	1323	2892
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2249	1351	2941
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2265	1357	2963
2266	1359	--------
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2284	1370	2989
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2286	1372	2991
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2296	1382	3001
2297	1383	3002
2298	1384	3003
2299	1385	3004
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2301	1387	3006
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2306	1392	3011
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2312	1394	3051a
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2315	1397	3054
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2454	1501	3183
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2539	1559	3241
2541	1560	3242

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Title 3	47 Stat. ch. 128	California Civil Code	Title 3	47 Stat. ch. 128	California Civil Code	Title 3	47 Stat. ch. 128	California Civil Code	Title 3	47 stat. ch. 128	California Civil Code
2542	1561	3243	2634	1603	3290	2723	1647	3408	2805	1689	3484
2543	1562	3244	2641	1604	3294	2731	1648	3412	2811	1690	3490
2544	1563	3245	2651	1605	3300	2732	1649	3413	2812	1691	3491
2545	1564	3246	2652	1606	3301	2733	1650	3414	2813	1692	3492
2546	1565	3247	2653	1607	3302	2734	1651	3415	2814	1693	3493
2547	1566	3248	2654	1609	3315	2741	1652	3420	2815	1694	3494
2548	1567	3249	2655	1610	3316	2742	1653	3421	2821	1696	3501
2549	1568	3250	2656	1611	3317	2751	1654	3429	2831	1697	3509
2550	1569	3251	2657	1612	3318	2752	1655	3430	2832	1698	3510
2561	1570	3252	2658	1613	3319	2753	1656	3431	2833	1699	3511
2562	1571	3253	2659	1614	3320	2754	1657	3432	2834	1700	3512
2563	1572	3254	2661	1615	3333	2755	1658	3433	2835	1701	3513
2564	1573	3255	2662	1616	3336	2761	1659	3439	2836	1702	3514
2565	1574	3256	2663	1617	3337	2762	1660	3440	2837	1703	3515
2566	1575	3257	2664	1618	3338	2763	1661	3441	2838	1704	3516
2567	1576	3258	2665	1619	3339	2771	1662	3449	2839	1705	3517
2571	1577	3259	2666	1620	3340	2772	1633	3449	2840	1706	3518
2572	1578	3260	2671	1622	3355	2773	1664	3449	2841	1707	3519
2573	1579	3261	2672	1623	3356	2774	1665	3449	2842	1708	3520
2574	1580	3262	2673	1624	3357	2775	1666	3449	2843	1709	3521
2575	1581	3263	2674	1625	3358	2776	1667	3450	2844	1710	3522
2576	1582	3264	2675	1626	3359	2777	1668	3451	2845	1711	3523
2581	1583	3265	2676	1627	3360	2778	1669	3452	2846	1712	3524
2582	1584	3265a	2681	1628	3366	2779	1670	3457	2847	1713	3525
2583	1585	3265b	2682	1629	3367	2780	1671	3458	2848	1714	3526
2584	1586	3265c	2683	1630	3368	2781	1672	3459	2849	1715	3527
2585	1587	3265d	2684	1631	3369	2782	1673	3460	2850	1716	3528
2586	1588	3265e	2691	1632	3379	2783	1674	3461	2851	1717	3529
2591	1589	3266	2692	1633	3380	2784	1675	3462	2852	1718	3530
2592	1590	3266a	2701	1634	3384	2785	1676	3463	2853	1719	3531
2593	1591	3266b	2702	1635	3386	2786	1677	3465	2854	1720	3532
2594	1592	3266c	2703	1636	3388	2787	1678	3467	2855	1721	3533
2595	1593	3266d	2704	1637	3389	2788	1679	3468	2856	1722	3534
2601	1594	3268	2705	1638	3390	2789	1680	3469	2857	1723	3535
2611	1595	3274	2706	1639	3391	2790	1681	3470	2858	1724	3536
2612	1596	3275	2707	1640	3392	2791	1682	3471	2859	1725	3537
2621	1597	3281	2711	1641	3399	2792	1683	3472	2860	1726	3538
2622	1598	3282	2712	1642	3400	2793	1684	3473	2861	1727	3539
2623	1599	3283	2713	1643	3401	2801	1685	3479	2862	1728	3540
2631	1600	3287	2714	1644	3402	2802	1686	3480	2863	1729	3541
2632	1601	3288	2721	1645	3406	2803	1687	3481	2864	1730	3542
2633	1602	3289	2722	1646	3407	2804	1688	3482	2865	1731	3543

2. THE CODE OF CIVIL PROCEDURE (TITLE 4)

This table shows where the sections of title 4, the Code of Civil Procedure, are to be found in act of February 27, 1933 (ch. 127, 47 Stat. 908), and in the Code of Civil Procedure of California.

Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure
1	1	1	17	17	30	35	33	187	55	49	291
2	2	2	18	18	32	36	34	273	56	50	292
3	3	3	21	19	124	41	35	--------	57	51	293
4	4	4	22	20	125	42	36	--------	58	52	294
5	5	--------	23	21	128	43	37	--------	59	53	295
6	6	12	24	22	147	44	38	--------	60	54	296
7	7	16	25	23	153	45	39	--------	61	55	297
8	8	17	26	24	--------	46	40	--------	62	56	298
9	9	21	27	25	166	47	41	282	63	57	299
10	10	22	28	26	170	48	42	283	64	58	300
11	11	23	29	27	172	49	43	284	65	59	--------
12	12	25	30	28	176	50	44	285	71	60	307
13	13	26	31	29	177	51	45	286	72	61	308
14	14	27	32	30	178	52	46	287	73	62	309
15	15	28	33	31	179	53	47	289	81	63	312
16	16	29	34	32	185	54	48	290	82	64	335

2. *The Code of Civil Procedure* (*Title 4*)—Continued

Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure
83	65	336	222	141	437a	344	217	528	469	293	615
84	66	337	223	142	438	345	218	529	470	294	616
85	67	338	224	143	439	346	219	532	471	295	617
86	68	339	225	144	440	351	220	537	472	296	618
87	69	340	226	145	441	352	221	538	473	297	619
88	70	343	227	146	442	353	222	539	481	298	624
89	71	344	228	147	--------	354	223	540	482	299	625
90	72	348	231	148	443	355	224	541	483	300	626
101	73	350	232	149	444	356	225	542	484	301	627
102	74	351	241	150	446	357	226	542a	485	302	628
103	75	352	242	151	447	358	227	543	486	303	629
104	76	353	243	152	448	359	228	544	501	304	632
105	77	354	244	153	449	360	229	545	502	305	633
106	78	355	251	154	452	361	230	546	503	306	634
107	79	356	252	155	453	362	231	547	504	307	636
108	80	357	253	156	454	363	232	548	511	308	638
109	81	358	254	157	455	364	233	549	512	309	639
110	82	360	255	158	456	365	234	550	513	310	641
111	83	361	256	159	457	366	235	551	514	311	642
112	84	362	257	160	458	367	236	552	515	312	643
113	85	363	258	161	460	368	237	553	516	313	644
121	86	--------	259	162	461	369	238	554	517	314	645
122	87	367	260	163	462	370	239	555	521	315	646
123	88	368	261	164	463	371	240	556	522	316	647
124	89	369	262	165	464	372	241	557	523	317	648
125	90	370	263	166	465	373	242	558	524	318	649
126	91	371	271	167	469	374	243	559	525	319	650
127	92	372	272	168	470	375	244	560	526	320	651
128	93	373	273	169	471	376	245	561	527	321	652
129	94	374	274	170	472	381	246	564	528	322	653
130	95	375	275	171	473	382	247	565	531	323	656
131	96	--------	276	172	474	383	248	566	532	324	657
132	97	378	277	173	475	384	249	567	533	325	658
133	98	379	278	174	476	385	250	568	534	326	659
134	99	379a	291	175	478	386	251	569	535	327	660
135	100	379b	292	176	479	387	252	570	536	328	663
136	101	379c	293	177	481	391	253	572	537	329	663a
137	102	380	294	178	482	392	254	574	541	330	664
138	103	382	295	179	483	393	255	--------	542	331	665
139	104	383	296	180	484	394	256	--------	543	332	666
140	105	384	297	181	485	395	257	--------	544	333	667
141	106	385	298	182	486	396	258	--------	545	334	--------
142	107	386	299	183	487	397	259	--------	546	335	669
143	108	387	300	184	488	398	260	--------	547	336	670
144	109	388	301	185	489	411	261	577	548	337	--------
145	110	389	302	186	490	412	262	578	549	338	673
151	111	--------	303	187	491	413	263	579	550	339	675
152	112	--------	304	188	492	414	264	580	561	340	676
153	113	--------	305	189	493	415	265	581	562	341	677
161	114	405	306	190	494	416	266	581a	563	342	677½
162	115	406	307	191	495	417	267	582	564	343	678
163	116	407	308	192	496	418	268	583	565	344	678½
164	117	408	309	193	497	421	269	585	566	345	679
165	118	410	310	194	498	431	270	588	567	346	679½
166	119	411	311	195	499	432	271	589	568	347	680
157	120	414	312	196	500	433	272	590	569	348	680½
168	121	412	313	197	501	434	273	591	581	349	681
169	122	--------	314	198	502	435	274	--------	582	350	681a
170	123	415	315	199	503	436	275	593	583	351	682
171	124	416	316	200	504	437	276	594	584	352	683
181	125	--------	321	201	509	438	277	595	585	353	684
182	126	--------	322	202	510	439	278	596	586	354	685
183	127	--------	323	203	511	441	279	--------	587	355	686
191	128	420	324	204	512	442	280	--------	588	356	688
192	129	421	325	205	513	451	281	601	589	357	689
193	130	422	326	206	514	452	282	602	590	358	690
201	131	425	327	207	515	453	283	603	591	359	691
202	132	426	328	208	516	454	284	604	592	360	692
203	133	426a	329	209	517	461	285	607	593	361	693
204	134	427	330	210	518	462	286	608	594	362	694
211	135	430	331	211	519	463	287	609	595	363	695
212	136	431	332	212	520	464	288	610	596	364	696
213	137	432	333	213	521	465	289	611	597	365	697
214	138	433	341	214	525	466	290	612	598	366	698
215	139	434	342	215	526	467	291	613	599	367	699
221	140	437	343	216	527	468	292	614	600	368	700

2. *The Code of Civil Procedure* (*Title 4*)—Continued

Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure
601	369	700a	751	446	870	953	523	1047	1103	599	1134
602	370	701	761	447	871	954	524	1048	1104	600	1135
603	371	702	762	448	872	955	525	1049	1111	601	1138
604	372	703	771	449	873	956	526	1050	1112	602	1139
605	373	704	772	450	874	957	527	1051	1113	603	1140
606	374	705	773	451	875	958	528	--------	1121	604	1143
607	375	706	774	452	876	959	529	1053	1122	605	1144
608	376	707	775	453	877	960	530	1054	1123	606	1145
609	377	708	781	454	878	961	531	1055	1124	607	1146
610	378	709	782	455	879	962	532	1056	1125	608	1147
611	379	710	783	456	880	963	533	1057	1126	609	1148
612	380	710½	784	457	881	964	534	1057a	1127	610	1149
613	381	711	785	458	884	965	535	--------	1128	611	1150
614	382	711½	786	459	886	966	536	--------	1129	612	1151
615	383	712	787	460	887	967	536a	--------	1130	613	1152
616	384	712½	791	461	889	968	537	1058	1131	614	1153
617	385	713	792	462	890	969	538	1059	1132	615	1154
618	386	713½	793	463	890a	971	539	1060	1141	616	1159
621	387	714	794	464	892	972	540	1061	1142	617	1160
622	388	715	795	465	893	973	541	1062	1143	618	1161
623	389	716	796	466	894	981	542	--------	1144	619	1162
624	390	717	797	467	895	982	543	--------	1145	620	1164
625	391	718	798	468	896	983	544	--------	1146	621	1165
626	392	719	799	469	897	984	545	--------	1147	622	1166
627	393	720	800	470	900a	985	546	--------	1148	623	1167
628	394	721	811	471	901	986	547	--------	1149	624	1168
641	395	726	812	472	901a	987	548	--------	1150	625	1169
642	396	727	813	473	902	988	549	--------	1151	626	1170
643	397	728	814	474	903	989	550	--------	1152	627	1172
644	398	729	815	475	904	990	551	1028	1153	628	1173
651	399	731	816	476	905	991	552	--------	1154	629	1174
652	400	732	821	477	--------	1001	553	--------	1155	630	1176
661	401	738	831	478	911	1002	554	--------	1156	631	1177
662	402	739	832	479	912	1003	555	--------	1157	632	1178
663	403	740	833	480	913	1004	556	--------	1158	633	1179
664	404	741	834	481	914	1005	557	--------	1161	634	--------
665	405	742	841	482	919	1006	558	--------	1162	635	--------
666	406	743	842	483	920	1007	559	--------	1163	636	--------
667	407	744	843	484	921	1008	560	1029	1164	637	--------
668	408	745	844	485	922	1009	561	--------	1165	638	1212
669	409	746	845	486	923	1021	562	--------	1166	639	1213
670	410	747	846	487	926	1022	563	--------	1167	640	1214
681	411	832	847	488	925	1023	564	--------	1168	641	1215
682	412	833	861	489	937	1024	565	--------	1169	642	1216
683	413	836	871	490	--------	1025	566	--------	1170	643	1217
691	414	839	881	491	974	1026	567	--------	1171	644	--------
692	415	840	882	492	975	1031	569	1067	1172	645	1219
693	416	841	883	493	976	1032	570	1068	1173	646	1220
694	417	842	884	494	977	1033	571	1069	1174	647	1221
695	418	843	885	495	978	1034	572	1070	1181	648	--------
696	419	844	886	496	978a	1035	573	1071	1182	649	--------
697	420	845	887	497	979	1036	574	1072	1183	650	--------
698	421	846	888	498	980	1037	575	1073	1184	651	--------
699	422	847	889	499	981	1038	576	1074	1185	652	--------
700	423	848	890	500	981a	1039	577	1075	1191	653	1275
701	424	849	891	501	982	1040	578	1076	1192	654	1276
702	425	850	901	502	989	1041	579	1077	1193	655	1277
711	426	851	902	503	990	1051	580	1084	1201	656	1294
712	427	852	903	504	991	1052	581	1085	1202	657	1295
713	428	853	904	505	992	1053	582	1086	1211	658	1298
714	429	854	905	506	993	1054	583	1087	1212	659	1299
715	430	855	906	507	994	1055	584	1088	1213	660	1300
716	431	856	911	508	997	1056	585	1089	1214	661	1301
717	432	857	921	509	1000	1057	586	1091	1215	662	1302
718	433	857a	931	510	1003	1058	587	1094	1216	663	1303
719	434	858	932	511	1004	1059	588	1095	1217	664	1304
720	435	859	933	512	1005	1060	589	1096	1218	665	1305
721	436	860	934	513	1007	1061	590	1097	1219	666	1306
731	437	861	941	514	1010	1071	591	1102	1220	667	1307
732	438	862	942	515	1011	1072	592	1103	1221	668	1308
733	439	863	943	516	1012	1073	593	1104	1222	669	1308a
734	440	864	944	517	1013	1074	594	1105	1223	670	1309
735	441	865	945	518	1014	1081	595	1108	1224	671	1310
741	442	866	946	519	1015	1091	596	1109	1231	672	1312
742	443	867	947	520	1016	1101	597	1132	1232	673	1313
743	444	868	951	521	1045	1102	598	1133	1233	674	1314
744	445	869	952	522	1046						

2. *The Code of Civil Procedure (Title 4)*—Continued

Title 4	47 Stat. ch. 127	California Civil Procedure
1234	675	1315
1235	676	1316
1236	677	1317
1237	678	1318
1241	679	1322
1242	680	1323
1243	681	1324
1251	682	1327
1252	683	1328
1253	684	1329
1254	685	1330
1255	686	1331
1256	687	1332
1257	688	1333
1261	689	1338
1262	690	1339
1263	691	1340
1264	692	1341
1271	693	1344
1272	694	1345
1273	695	1346
1281	696	1348
1282	697	1349
1283	698	1350
1284	699	1350a
1285	700	1351
1286	701	1352
1287	702	1353
1288	703	1354
1289	704	1355
1290	705	1356
1301	706	1360
1302	707	1361
1303	708	1362
1311	709	1365
1312	710	1366
1313	711	1367
1314	712	1368
1315	713	1369
1316	714	1370
1321	715	1371
1322	716	1372
1323	717	1373
1324	718	1374
1325	719	1375
1326	720	1376
1327	721	1377
1328	722	1378
1329	723	1379
1330	724	1380
1331	725	1381
1341	726	1383
1342	727	1384
1343	728	1385
1344	729	1386
1351	730	1387
1352	731	1388
1353	732	1390
1354	733	1391
1355	734	1392
1356	735	1393
1357	736	1394
1358	737	1395
1359	738	1396
1360	739	1397
1361	740	1398
1362	741	1399
1363	742	1400
1364	743	1401
1365	744	1402
1366	745	1403
1367	746	1404
1368	747	1405
1369	748	1406
1370	749	1407
1381	750	1411

Title 4	47 Stat. ch. 127	California Civil Procedure
1382	751	1412
1383	752	1413
1384	753	1414
1385	754	1415
1386	755	1416
1387	756	1417
1388	757	1418
1391	758	1423
1392	759	1424
1393	760	1425
1394	761	1426
1395	762	1427
1396	763	1428
1397	764	1429
1401	765	1430
1411	766	1436
1412	767	1437
1413	768	1438
1414	769	1439
1415	770	1440
1431	771	1443
1432	772	1444
1433	773	1445
1434	774	1446
1435	775	1447
1436	776	1448
1437	777	1449
1438	778	1450
1439	779	1451
1440	780	1452
1441	781	1453
1451	782	1458
1452	783	1459
1453	784	1460
1454	785	1461
1461	786	1464
1462	787	1465
1463	788	1465a
1464	789	1466
1465	790	1467
1466	791	1468
1467	792	1469
1468	793	1470
1471	794	1490
1472	795	1491
1473	796	1491a
1474	797	1492
1475	798	1493
1476	799	1494
1477	800	1496
1478	801	1497
1479	802	1498
1480	803	1499
1481	804	1500
1482	805	1501
1483	806	1502
1484	807	1503
1485	808	1504
1486	809	1505
1487	810	1507
1488	811	1508
1489	812	1509
1490	813	1510
1491	814	1511
1492	815	1512
1493	816	1513
1494	817	1514
1501	818	1516
1502	819	1517
1503	820	1522
1504	821	1523
1505	822	1524
1506	823	1525
1507	824	1526
1508	825	{1528 {1578
1509	826	1536

Title 4	47 Stat. ch. 127	California Civil Procedure
1510	827	1577a
1521	828	1581
1522	829	1582
1523	830	1583
1524	831	1584
1525	832	1585
1526	833	1586
1527	834	1587
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1529	836	1589
1530	837	1590
1531	838	1591
1532	839	--------
1533	840	1592
1541	841	1597
1542	842	1598
1543	843	1599
1544	844	1600
1545	845	1601
1546	846	1602
1547	847	1603
1548	848	1604
1549	849	1605
1550	850	1606
1551	851	1607
1561	852	1612
1562	853	1613
1563	854	1614
1564	855	1615
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1566	857	1617
1567	858	1618
1568	859	1619
1571	860	1622
1572	861	1626
1573	862	1627
1574	863	1628
1575	864	1629
1576	865	1630
1577	866	1631
1578	867	1632
1579	868	1633
1580	869	1634
1581	870	1635
1582	871	1636
1583	872	1637
1584	873	1638
1585	874	1639
1591	875	1643
1592	876	1644
1593	877	1645
1594	878	1646
1595	879	1647
1596	880	1648
1597	881	1649
1598	882	1650
1599	883	1651
1600	884	1652
1601	885	1653
1611	886	1658
1612	887	1659
1613	888	1660
1614	889	1661
1615	890	1662
1616	891	1663
1621	892	1664
1622	893	1665
1623	894	1666
1624	895	1667
1625	896	1668
1626	897	1670
1627	898	1671
1631	899	1675
1632	900	1676
1633	901	1678
1634	902	1679
1635	903	1680

Title 4	47 Stat. ch. 127	California Civil Procedure
1636	904	1681
1637	905	1682
1638	906	1683
1639	907	1684
1640	908	1685
1641	909	1686
1651	910	1703½
1661	911	1691
1662	912	1692
1663	913	1693
1664	914	1694
1665	915	1695
1666	916	1696
1667	917	1697
1668	918	1698
1671	919	1699
1672	920	1700
1673	921	1702
1674	922	1703
1681	923	1704
1682	924	1705
1683	925	1707
1684	926	1708
1685	927	1709
1686	928	1710
1687	929	1711
1688	930	1713
1689	931	1714
1690	932	1716
1691	933	1717
1692	934	1720
1693	935	1721
1694	936	1722
1695	937	1724
1701	938	--------
1702	939	1726
1703	940	--------
1704	941	1726a
1705	942	--------
1706	943	--------
1707	944	1727
1708	945	1728
1709	946	1729
1710	947	1730
1711	948	1731
1712	949	1732
1713	950	1735
1714	951	1738
1715	952	--------
1716	953	1742
1717	954	1743
1721	955	1747
1722	956	1748
1723	957	1749
1724	958	1750
1725	959	1751
1726	960	1753
1727	961	1754
1728	962	1755
1729	963	1756
1730	964	1757
1731	965	1758
1732	966	1759
1733	967	1760
1734	968	1761
1741	969	1763
1742	970	1764
1743	971	1764a
1744	972	1765
1745	973	1766
1746	974	1767
1747	975	--------
1751	976	--------
1752	977	--------
1753	978	--------
1754	979	--------
1755	980	--------

2. *The Code of Civil Procedure (Title 4)*—Continued

Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure	Title 4	47 Stat. ch. 127	California Civil Procedure
1756	981	--------	1862	1044	1845	1949	1110	1923	2075	1176	2013
1757	982	--------	1863	1045	1846	1950	1111	1924	2076	1177	2014
1758	983	--------	1864	1046	1847	1951	1112	1926	2077	1178	2015
1759	984	--------	1865	1047	1848	1952	1113	1928	2081	1179	2019
1760	985	--------	1866	1048	1849	1961	1114	1929	2082	1180	2020
1761	986	--------	1867	1049	1850	1962	1115	1930	2083	1181	2021
1762	986½	--------	1868	1050	1851	1963	1116	1931	2084	1182	2022
1763	--------	--------	1869	1051	1852	1964	1117	1932	2085	1183	2023
1771	987	1768	1870	1052	1853	1965	1118	1933	2091	1184	2024
1772	988	1769	1871	1053	1854	1966	1119	1934	2092	1185	2025
1773	989	1770	1872	1054	1855	1967	1120	1935	2093	1186	2025½
1774	990	1771a	1873	1055	1855a	1968	1121	1936	2094	1187	2026
1775	991	1771	1874	1056	1856	1969	1122	1937	2095	1188	2027
1776	992	1772	1875	1057	1857	1970	1123	1938	2096	1189	2028
1777	993	1773	1876	1058	1858	1971	1124	1939	2097	1190	2029
1778	994	1774	1877	1059	1859	1972	1125	1940	2101	1191	2031
1779	995	1775	1878	1060	1860	1973	1126	1941	2102	1192	2032
1780	996	1776	1879	1061	1861	1974	1127	1942	2103	1193	2035
1791	997	1777	1880	1062	1862	1975	1128	1943	2104	1194	2036
1792	998	1779	1881	1063	1863	1976	1129	1944	2105	1195	2036a
1793	999	1780	1882	1064	1864	1977	1130	1945	2106	1196	2037
1794	1000	1789	1883	1065	1865	1978	1131	1946	2107	1197	2038
1795	1001	1789a	1884	1066	1866	1979	1132	1947	2111	1198	2042
1796	1002	1792	1885	1067	1867	1980	1133	1948	2112	1199	2043
1801	1003	1793	1886	1068	1868	1981	1134	1950	2113	1200	2044
1802	1004	1794	1887	1069	1869	1982	1135	1951	2114	1201	2045
1803	1005	1795	1888	1070	1870	1991	1136	1954	2115	1202	2046
1804	1006	1796	1891	1071	1875	2001	1137	1957	2116	1203	2047
1805	1007	1797	1901	1072	1878	2002	1138	1958	2117	1204	2048
1806	1008	1798	1902	1073	1879	2003	1139	1959	2118	1205	2049
1807	1009	1799	1903	1074	1880	2004	1140	1960	2119	1206	2050
1811	1010	1800	1904	1075	1881	2005	1141	1961	2120	1207	2051
1812	1011	1801	1905	1076	1883	2006	1142	1962	2121	1208	2052
1813	1012	1802	1906	1077	1884	2007	1143	1963	2122	1209	2053
1814	1013	1803	1911	1078	1887	2011	1144	1967	2123	1210	2054
1815	1014	1804	1912	1079	1888	2012	1145	1968	2124	1211	2055
1816	1015	1805	1913	1080	1889	2013	1146	1969	2131	1212	2061
1817	1016	1806	1921	1082	1893	2014	1147	1970	2141	1213	2064
1818	1017	1807	1922	1083	1894	2015	1148	1971	2142	1214	2065
1819	1018	1808	1923	1084	1896	2016	1149	1972	2143	1215	2066
1820	1019	1809	1924	1085	1898	2017	1150	1973	2144	1216	2067
1821	1020	1810	1925	1086	1899	2018	1151	1974	2145	1217	2068
1822	1021	1810a	1926	1087	1900	2021	1152	1978	2146	1218	2069
1823	1022	1810b	1927	1088	1901	2031	1153	1981	2147	1219	2070
1824	1023	1810c	1928	1089	1902	2032	1154	1982	2151	1220	2074
1831	1024	1822	1929	1090	1903	2041	1155	1985	2152	1221	2075
1832	1025	1822a	1930	1091	1904	2042	1156	1986	2153	1222	2076
1833	1026	1822b	1931	1092	1905	2043	1157	1987	2154	1223	2078
1841	1027	1823	1932	1093	1906	2044	1158	1988	2155	1224	--------
1842	1028	1824	1933	1094	1907	2045	1159	1990	2161	1225	2083
1843	1029	1825	1934	1095	1908	2046	1160	1991	2162	1226	2084
1844	1030	1826	1935	1096	1909	2047	1161	1992	2163	1227	2085
1845	1031	1827	1936	1097	1910	2048	1162	1993	2164	1228	2086
1846	1032	1828	1937	1098	1911	2049	1163	1994	2165	1229	2087
1847	1033	1829	1938	1099	1912	2050	1164	1995	2166	1230	2088
1848	1034	1830	1939	1100	1913	2051	1165	1996	2167	1231	2089
1849	1035	1831	1940	1101	1914	2061	1167	2002	2171	1232	2093
1850	1036	1832	1941	1102	1915	2062	1168	2003	2172	1233	2094
1851	1037	1833	1942	1103	1916	2063	1169	2004	2173	1234	2095
1852	1038	1834	1943	1104	1917	2064	1170	2005	2174	1235	2096
1853	1039	1836	1944	1105	1918	2065	1171	2006	2175	1236	2097
1854	1040	1837	1945	1106	1919	2071	1172	2009	2181	1237	2101
1855	1041	1838	1946	1107	1920	2072	1173	2010	2182	1238	2102
1856	1042	1839	1947	1108	1921	2073	1174	2011	2183	1239	2103
1861	1043	1844	1948	1109	1922	2074	1175	2012			

3. THE CRIMINAL CODE (TITLE 5)

This table shows where the sections of title 5, the Criminal Code, are to be found in the original Criminal Code of the Canal Zone (Act no. 14 of the Isthmian Canal Commission, as amended), and in the Penal Code of California.

[*=Amended or added by, or derived from, act of Congress; †=amended or added by, or derived from, Executive order promulgated prior to Aug. 24, 1912; ‡=derived from act or ordinance of Isthmian Canal Commission other than Criminal Code (Act no. 14); #=altered by the codification, 1934]

Title 5	Old Criminal Code	California Penal Code
1	* 1	1
2	* 2	3
3	3	4
4	461	7
5	8	7
	* 461	
6	5	--------
7	21	9
8	22	677
9	19	10
10	9	678
11	7	11
21	10	15
22	11	20
23	13	16
24	* 14	17
25	* 15	18
26	* 16	19
27	39	654
28	36	662
29	40	657
30	43	660
31	17	177
41	45	664
42	* 44	663
43	46	665
51	31	30
52	32	31
53	33	32
54	18	33
55	42	659
56	* 34	27
57	35	26
58	* 37	22
71	50	667
72	51	666
73	52	668
74	53	644
75	54	--------
76	55	--------
81	56	182
82	57	184
91	* 74a	--------
92	# 76	67
93	# 77	68
94	* 79	70
95	* 83	74
96	82	73
97	*80	71
98	87	--------
99	86	--------
100	75	65
101	84	75
102	81	72
103	*85	76
104	78	69
111	*43a	--------
121	*94	92
122	*95	93
123	*96	94
124	97	94
125	97	94
126	*98	95
127	*99	96
128	100	97
131	#101	113
132	*102	114
133	103	115
134	*103a	116
135	*103b	117
141	104	118
	105	
142	*104a	118a
143	109	125
144	104	121
145	107	123
146	106	122
147	108	124
148	*110	126
149	111	127
161	112	132
162	*113	133
163	114	134
164	*115	135
165	*116	136
166	117	137
167	118	138
171	134	170
172	119	142
173	121	146
174	120	145
175	#125	150
176	*124	149
177	*122	147
178	*123	148
179	*137	102
180	145	419
181	126	153
182	*133	168
183	*132	167
184	*135	173
191	*142	362
192	*143	363
193	*144	364
201	138	106
202	139	108
203	140	109
204	141	110
205	*141a	109a
206	*#136	101
211	*131	--------
212	*131a	--------
	*131b	
221	*145a	160
222	*145b	161
223	*145c	164
231	128	155
232	*127	154
233	129	156
234	130	157
251	146	187
252	147	188
253	*148	189
254	†149	190
*255	--------	--------
256	150	192
257	#151	193
258	152	194
259	154	195
260	155	196
261	156	197
262	157	198
263	158	199
271	159	203
272	160	204
281	#161	207
282	*162	208
283	*163	209
291	184	211
292	185	212
293	#186	213
294	*166	214
301	*165	217
302	*164	216
303	*166	218
311	*169	220
312	170	221
313	171	222
321	172	225
322	173	226
323	174	229
324	175	230
325	176	231
326	177	232
331	187	236
332	*188	237
341	178	240
342	†179	241
343	180	242
344	†181	243
345	*182	244
346	183	245
351	189	248
352	*190	249
353	191	250
354	*192	251
355	193	252
356	194	253
357	200	--------
358	195	254
359	196	255
360	197	256
361	*198	257
362	*198	257
363	#199	258
371	377	650
372	*167	346
373	*168	347
374	*244	361
375	246	365
*391	--------	--------
*392	--------	--------
401	#201	261
402	202	262
403	203	263
404	*204	264
405	*205	265
406	206	266
407	207	268
408	208	269
411	216	281
	*218	
412	217	282
413	219	284
414	*220	285
415	223	286
416	*223a	288
421	*211	274
422	*212	275
423	213	317
431	214	--------
	215	
441	†209	--------
442	210	272
443	†210½	--------
†444	--------	--------
451	228	311
452	*229	312
453	*230	313
454	231	314
455	232	315
456	233	316
457	*235	318
‡*461	--------	330
‡*462	--------	330a
‡*463	--------	330a
‡*471	--------	--------
‡472	--------	--------
‡*473	--------	--------
‡*474	--------	--------
‡*475	--------	--------
‡*476	--------	--------
‡*477	--------	--------
481	224	290
482	225	291
483	226	296
484	*227	297
501	256	378
502	272	401
503	267	394
504	271	400
505	253	373
506	*255	375
507	254	374
511	*250a	367c
512	*250b	367d
513	*250c	367e
521	247	349
522	249	348
523	*248	368
524	*250	369
525	265	390
526	266	391
531	263	386
532	264	387
541	257	380
542	259	382
543	275	402a
544	260	383
551	251	370
552	252	372
561	*270	399
562	*270a	--------
563	278	--------
564	273	402
565	274	402b
566	*276	--------
567	277	--------
571	261	384
572	262	385
*591	--------	--------
*592	--------	--------
593	280	302
594	281	404
595	*282	405
596	*283	406
597	284	407
598	*285	408
599	*286	409
600	287	410
601	291	416
602	290	415

3. *The Criminal Code* (*Title 5*)—Continued

[*=Amended or added by, or derived from, act of Congress; †=amended or added by, or derived from, Executive order promulgated prior to Aug. 24, 1912; ‡=derived from act or ordinance of Isthmian Canal Commission other than Criminal Code (Act no. 14); #=altered by the codification, 1934]

Title 5	Old Criminal Code	California Penal Code	Title 5	Old Criminal Code	California Penal Code	Title 5	Old Criminal Code	California Penal Code	Title 5	Old Criminal Code	California Penal Code
603	†*#293a	--------	691	379	529	751	409	572	808	439	618
604	292	417	692	378	528	752	396	557	809	422	596
605	293	418	693	380	530	753	#397	558	810	†423	597
606	*288	412	694	381	531	754	398	559	†811	--------	--------
607	*289	413	695	382	532	755	399	560	*821	--------	--------
†*608	--------	--------	696	*383	533	756	400	562	822	417	607
‡609	--------	--------	697	*389a	538	757	*401	563	823	#315	600
621	*297	426	698	384	534	758	402	564	824	*420a	588a
622	*294	424	699	385	535	759	403	565	825	418	590
623	*295	--------	700	*386	536	760	404	566	826	416	587
624	296	425	701	387	537	761	405	568	†827	--------	--------
625	*298	427	702	388	538	762	406	569	†#828	--------	--------
626	303	431	703	268	395	763	407	570	‡829	--------	--------
627	304	432	704	*243	--------	764	408	571	‡#830	--------	--------
641	*306	447	705	*390	548	771	340	484	831	419	591
642	307–310	448–451	706	389	538a	772	341	486	832	429	605
643	312	453	711	391	552	773	†*342	487	833	*436	615
	313		712	392	553		†344	489	834	*440	622
644	#314	455	713	393	554	774	*343	488	835	441	624
651	316	459	714	394	555			490	‡#836	--------	--------
652	317	460	715	395	555	775	347	492	837	420	592
653	319	463	716	*258	381	776	348	493	838	*431	607
654	#318	461	721	321	470	777	349	494	839	#432	610
655	320	466	722	322	471	778	350	495	840	433	611
661	358	503	723	323	472	779	356	502½	841	430	606
662	*359	504	724	*324	473	780	346	485	842	437	616
663	361	506	725	*325	474	781	*355	500	†#843	--------	--------
664	360	505	726	*326	475	782	353	498	†844	--------	--------
665	362	507	727	*327	476			499a	†845	--------	--------
666	363	508	728	*327a	476a	783	354	499	†846	--------	--------
667	364	510	729	328	477		357		851	442	638
	*368		730	*329	478	784	*354a	499b	852	443	639
668	365	511	731	*330	479	785	*354b	499c	853	*444	640
669	*366	512	732	332	--------	786	351	496	854	*445	641
670	*367	513	733	333	--------	†#787	--------	--------	855	446	619
671	*368	514	734	334	--------	788	*352	497	856	447	620
681	369	518	735	335	--------	789	#242	357	857	448	621
682	370	519	736	*336	--------	801	421	594	*871	--------	--------
683	371	520	737	331	480	802	*426	602	*872	--------	--------
684	372	521	738	337	--------	803	#315	600	*873	--------	--------
685	373	522	739	338	481	804	427	602h	*874	--------	--------
686	374	523	740	*339	482	805	428	602h	*875	--------	--------
687	375	524	741	*339a	--------	806	425	601	*876	--------	--------
688	376	525	742	*245	--------	807	*438	617	*877	--------	--------

4. THE CODE OF CRIMINAL PROCEDURE (TITLE 6)

This table shows where the sections of title 6, the Code of Criminal Procedure, are to be found in the original Code of Criminal Procedure (Act No. 15 of the Isthmian Canal Commission, as amended), and in the Penal Code of California.

[*=Amended or added by, or derived from, Act of Congress; †=amended by Executive order; ‡=derived from section of original Criminal Code shown in parentheses; #=derived from act Isthmian Canal Commission other than Code of Criminal Procedure (Act No. 15); √=Code of Civil Procedure of California]

Title 6	Old Criminal Procedure	California Penal Code
1	1	--------
*2	--------	--------
3	*9	777
4	4	683
5	5	684
6	58	--------
7	10	685
8	6	687
‡9	(39)	654
10	7	688
11	7	688
12	*40	825
13	*8	777
14	*11	686
15	*2	689
16	*3a	--------
17	101	--------
‡31	(47)	693
‡32	(48)	694
‡33	(*49)	--------
‡41	(*58)	701
‡42	(*59)	702
‡43	(*60)	703
‡44	(61)	704
‡45	(62)	705
‡46	(63)	706
‡47	(64)	707
‡48	(65)	708
‡49	(66)	709
‡50	(67)	710
‡51	(68)	711
‡52	(69)	712
‡53	(70)	714
‡61	(71)	799
‡62	(72)	800
‡63	(73)	801
‡64	(74)	802
71	*12	--------
72	*18	811
73	*19	812
74	*20	813
75	21	814
76	*21a	815
81	107	834
82	108	835
83	109	836
84	*21b	817
85	110	837
86	111	838
87	57	--------
88	112	839
89	*114a	--------
90	*113	840
91	114	841
92	115	842
93	*116	843
94	117	844
95	118	845
96	*119	846
97	*26	847
98	27	848
99	28	849
100	122	854
101	123	855
111	*52	√ (128)
112	17	√ (124)
113	51	--------
114	53	--------
115	*14	--------
121	49	1433
122	*23	--------
123	43	--------
124	*24	--------
125	*24	--------
126	*25	--------
127	*50	--------
*131	--------	--------
132	*44	--------
133	*44	--------
134	*97	--------
135	*97	--------
141	*41	--------
142	*33	--------
143	34	877
144	35	878
145	36	879
146	37	881
147	38	882
148	*59	--------
149	*59	--------
150	*60	--------
161	61	948
162	374	1404
171	*62, 63	--------
172	*3	--------
173	*92	--------
174	*94	--------
175	*64	--------
176	*93	--------
177	96	--------
181	*3, 66	--------
182	*67	951
183	*70	952
184	76	--------
185	72	--------
186	72	--------
187	*77	959
188	75	957
189	78	960
190	71	953
191	73	955
192	74	956
193	79	961
194	81	963
195	*86a	969
196	80	962
197	87	970
201	82	964
202	83	965
203	84	966
204	85	967
205	86	968
211	88	971
212	89	972
221	124, *125	976
222	*125	977
223	126	978
224	127	979
225	128	980
226	*129	981
227	131	--------
228	*134	987
229	135	988
230	136	989
231	137	990
232	137	990
	144	1002
	145	1003
241	*138	995
242	139	996
243	*140	997
244	141	998
245	142	999
251	143	--------
252	146	1004
253	147	1005
254	148	1006
255	149	1007
256	*150	1008
257	*150	1008
258	151	1009
259	153	1011
260	154	1012
271	155	1016
272	156	1017
273	157	1018
274	158	1019
275	159	1020
276	160	1021
277	161	1022
278	162	1023
279	163	1024
280	*163a	1025
291	164	1033
292	165	1034
293	166, 167	1035
294	*169a	1036
295	168	1037
296	167	--------
297	169	1038
298	169	1038
301	*170	1041
302	*171	1042
303	*209b	1046
304	172	1043
311	173	1047
312	174	1048
321	*175	1049
322	176	1052
331	*176a	1055
332	*176b	1056
333	*176c	1057
334	*176d	1058
335	*176e	1059
336	*176f	1060
337	*176g	1061
338	*176h	1062
339	*176i	1063
340	*176j	1064
341	*176k	1065
342	*176l	1066
343	*176m	1067
344	*176n	1068
345	*176o	1069
346	*176oo	1070
347	*176p	1071
348	*176q	1072
349	*176r	1073
--------	*176u	--------
350	*176s	1074
351	*176t	1075
352	*176u	1076
353	*176v	1077
354	*176w	1078
355	*176x	1081
356	*176y	1082
357	*176z	1083
361	*177	1093
362	177	867
363	179	1096
364	180	1097
365	181	1098
366	182	1099
367	183	1100
368	184	1101
369	*184a	1102
370	185	(√2045)
371	186	(√2049)
372	187	(√2051)
373	188	(√2052)
‡374	(12)	21
‡375	(25)	8
376	193	1108
377	191	1106
378	189	1104
379	195	1110
380	192	1107
381	196	1131
382	194	1109
‡383	(153)	--------
384	190	1105
385	*184b	1103a
‡386	(38)	14
387	197	1111
388	198	998 1113
389	*199	1119
390	178	1095
391	200	1129
392	201	--------
401	*209b	--------
402	*202a	1147
403	*209a	--------
404	202	1148
405	*202b	1150
406	204	1151
407	*202c	1152
408	*202d	1153
409	*202e	1154
410	*202f	1155
411	*202g	1156
412	205	1157
413	*206	1158
414	*207	1159
415	*208	1160
416	*202h	1161
417	*202i	1162
418	*202j	1163
419	*202k	1164
420	209	1165
431	*210	(√646)
432	*210	(√646)
433	*210	--------
434	*212	(√647)

4. The Code of Criminal Procedure (*Title 6*)—Continued

[*=Amended or added by, or derived from, Act of Congress; †=amended by Executive order; ‡=derived from section of original Criminal Code shown in perentheses; #=derived from act Isthmian Canal Commission other than Code of Criminal Procedure (Act No. 15); √=Code of Civil Procedure of California]

Title 6	Old Criminal Procedure	California Penal Code	Title 6	Old Criminal Procedure	California Penal Code	Title 6	Old Criminal Procedure	California Penal Code	Title 6	Old Criminal Procedure	California Penal Code
441	*215	--------	548	*30	--------	704	342	1352	780	433	1382
442	*215a	--------	549	31	--------	705	343	1353	791	*362	1383
443	*214	(√650)	550	*32	--------	706	344	1354	792	363	1383
451	216	1179	561	*22	--------	707	345	1355	793	365	1385
452	218	1181	562	*22	--------	708	346	1356	794	364	1384
453	*219	--------	563	*22	--------	709	347	1357	795	*366	1387
454	*219	--------	564	*291a	--------	710	348	1358	801	359	1377
455	*219	--------	571	292	1277	711	349	1359	802	360	1378
456	217	1180	572	*293	1278	712	350	1360	803	360	1378
461	220	1185	573	*294	1279	713	351	1361	804	361	1379
462	221	1186	574	295	1280	714	352	1362	811	353	1367
463	222	1187	575	296	1281	721	382	1473	812	354	1368
464	223	1188	581	*297	--------	722	383	1474	813	355	1369
481	224	1191	582	*302	1289	723	384,	1475	814	356	1370
‡482	(23)	12	591	303	1291		385		815	357	1371
‡483	(24)	13	592	*304	1292	724	*413a	--------	816	358	1372
‡484	(*29)	13	601	*305	1295	725	386	1477	821	375	1407
485	225	1192	602	*305	1295	726	387	1478	822	376	1408
486	226	1193	603	306	1296	727	403	1495	823	377	1409
487	227	1194	604	*307	1297	728	388	1479	824	378	1410
488	228	1195	611	308	1300	729	413	1505	825	*379	1411
489	229	1196	612	309	1301	730	389	1480	826	380	1412
490	230	1197	613	†310	1302	731	390	1481	827	381	1413
491	231,	1198	621	311	1305	732	391	1482	831	367	1390
	232		622	311	1305	733	392	1483	832	*368	1392
492	233	1200	623	312	1306	734	393	1484	833	369	1393
493	234	1202	624	314	--------	735	402	1494	834	370	1394
494	235	--------	625	*313	1307	736	394	1485	835	371	1395
495	236	--------	631	*315	1310	737	395	1486	836	372	1396
‡496	(41)	--------	632	316	1311	738	396	1487	837	373	1397
497	*237	1205	633	317	1312	739	397	1488	841	*103	1047
498	239	--------	634	318	1313	740	*399	--------	842	*105	--------
499	*241	1207	635	319	1314	741	398	1489	843	*103	--------
‡500	(*23a)	--------	636	*320	1315	742	400	1492	851	434	1547
‡501	(*23a)	--------	637	321	1316	743	401	1493	*861	--------	--------
511	*242	1213	651	*322	1326	744	404	1496	862	436	1549
512	*243	1214	652	*322	1326	745	405	1497	863	437	1550
513	*244	1215	653	*322	1326	746	406	1498	864	438	1551
514	245	1216	654	*323	1327	747	407	1499	865	439	1552
‡515	(*26)	--------	655	*90	1326	748	408	1500	866	440	1553
‡516	(27)	669	656	324	1328	749	409	1501	867	441	1554
‡517	(28)	670	657	*325	1329	750	410	1502	868	442	1555
‡518	(28)	670	658	326	1331	751	411	1503	869	443	1556
521	246	1217	659	326	1331	752	412	1504	870	444	1557
522	247	1218	660	327	1332	761	414	1523	871	445	1558
523	249	1220	661	328	1333	762	415	1524	*881	--------	--------
524	250	1221	671	*328a	1321	763	416	1525	*882	--------	--------
525	251	1222	672	*328b	1322	764	417	1526	*883	--------	--------
526	252	--------	673	*328c	1323	765	418	1527	*884	--------	--------
527	253	1224	681	*329	1335	766	419	1528	*885	--------	--------
528	254	1225	682	*330	1336	767	420	1529	*886	--------	--------
529	255	1226	683	*331	1337	768	421	1530	*887	--------	--------
530	256	1227	684	*331	1338	769	422	1531	*888	--------	--------
531	257	1228	685	*332	1339	770	423	1532	*889	--------	--------
532	258	1229	686	*334	1341	771	424	1533	*890	--------	--------
533	259	1230	687	*333	1340	772	425	1534	*891	--------	--------
541	285	1268	688	335	1342	773	426	1535	*892	--------	--------
542	286	1269	689	336	1343	774	*427	1536	#901	--------	--------
543	287	1270	690	337	1344	775	428	1537	#902	--------	--------
544	288	1271	691	338	1345	776	429	1538	‡903	(30)	676
545	*289	1272	701	339	1349	777	430	1539	904	*447	--------
546	*290	1273	702	340	1350	778	431	1540	905	446	1567
547	291	1274	703	341	1351	779	432	1542			

5. UNITED STATES CODE TO CANAL ZONE CODE

This table shows the disposition of such sections of the United States Code as have been incorporated in the text of the Canal Zone Code.

U.S. Code		Canal Zone Code	
Title	Section	Title	Section
5	47a	2	94, note
5	692b	2	92
5	790	2	121
5	791	2	122
5	793	2	123
15	31	2	11
24	196	4	1763
28	225	7	61
47	120	2	361
47	121	2	362
48	1301	2	1
48	1302	2	2, 3
48	1303	2	303
48	1304	2	301
48	1305	2	5, 6, 81, 82
48	1305a	2	82
48	1306	2	8
48	1307	2	7
48	1308	2	303
48	1310	2	371, 372, 373
48	1311	2	401
48	1312	2	321, 322
48	1313	5	391, 591
48	1314	2	323, 402
48	1314	5	392, 592
48	1315	2	411, 412
48	1316	2	414
48	1317	2	413
48	1318	2	9
48	1319	2	10
48	1321	2	141
48	1322	5	255, 821
48	1323	2	51, 52, 421
48	1323a	2	271, 272, 273
48	1323b	2	274
48	1323c	2	275
48	1325a	2	61
48	1325b	2	66
48	1325c	2	62, 63
48	1325d	2	64
48	1325e	2	65
48	1326	2	67
48	1327	2	31
48	1328	2	32
48	1329	2	33
48	1330	6	861
48	1330a	6	881
48	1330b	6	882
48	1330c	6	883
48	1330d	6	884
48	1330e	6	885
48	1330f	6	886, 887, 888
48	1330g	6	889
48	1330h	6	890
48	1330i	6	891
48	1330j	6	892
48	1331	2	391, 392
48	1333	2	222
48	1334	2	221
48	1335	2	223
48	1336	2	211
48	1336a	2	151, 153
48	1336b	2	152
48	1336c	2	154
48	1336d	2	155
48	1336e	2	156
48	1336f	2	157
48	1336g	2	158
48	1336h	2	159
48	1336i	2	160
48	1341	2	4
48	1342	2	261
48	1342	7	1, 2, 3, 4, 5, 6
48	1343	6	131
48	1343	7	7
48	1344	7	21, 22, 27, 28, 29
48	1344a	7	31, 32
48	1345	7	23, 25
48	1345a	2	43
48	1346	7	26
48	1347	7	33, 34, 35
48	1348	7	30
48	1349	7	36
48	1350	7	29
48	1351	7	37, 38, 39
48	1352	7	40, 41
48	1353	7	42
48	1356	7	24, 61, 62
48	1358	3	512
48	1371	2	91
48	1371a	2	92
48	1371b	2	93
48	1371bb	2	95, note
48	1371c	2	94
48	1371d	2	95
48	1371e	2	96
48	1371f	2	97
48	1371g	2	98
48	1371h	2	99
48	1371i	2	100
48	1371j	2	101
48	1371k	2	102
48	1371l	2	103
48	1371m	2	104
48	1371n	2	105
48	1371o	2	106
48	1371p	2	107
50	191	2	12

6. STATUTES AT LARGE TO CANAL ZONE CODE

This table shows the disposition of such acts of Congress as have been incorporated in the text of the Canal Zone Code.

Statutes at Large					Canal Zone Code	
Date	Chapter	Section	Volume	Page	Title	Section
1906						
June 28	3585	......	34	552	3	512
1907						
Mar. 4	2918	8	34	1371	2	83
1909						
Feb. 27	224	1-5	35	658	2	303
1910						
June 25	384	2	36	772	2	221
1911						
Mar. 4	285	2	36	1451	2	222
Do	285	6	36	1452	2	223
1912						
Aug. 24	390	1	37	560	2	2, 3
Do	390	3	37	561	2	301
Do	390	4	37	561	2	5, 6, 81, 82
Do	390	5	37	562	2	9, 10, 411, 412
Do	390	6	37	563	2	51, 52, 421
Do	390	7	37	564	2	4, 7, 211, 261

6. Statutes at Large to Canal Zone Code—Continued

Statutes at Large					Canal Zone Code	
Date	Chapter	Section	Volume	Page	Title	Section
1912						
Aug. 24	390	7	37	564	6	131
Do	390	7	37	564	7	1–7
Do	390	8	37	565	7	21–23, 25–42
Do	390	9	37	565	7	24, 61, 62
Do	390	11	37	567	2	11
Do	390	12	37	569	6	861
Do	390	13	37	569	2	8
Do	390	14	37	569	2	1
1914						
June 15	106	1	38	385	2	411, 412
Do	106	2	38	386	2	411–413
Aug. 1	223	4	38	679	2	31
Do	223	5	38	679	2	32
1915						
Mar. 3	75	3	38	886	2	33
1916						
Aug. 21	371	1	39	527	2	371–373
Do	371	2	39	528	2	401
Do	371	3	39	528	2	321, 322
Do	371	4	39	528	5	391, 591
Do	371	5	39	528	2	323, 402
Do	371	5	39	528	5	392, 592
Do	371	8	39	528	2	67
Do	371	9	39	529	2	391, 392
Do	371	10	39	529	2	141
Do	371	10	39	529	5	255, 821
Sept. 7	458	40	39	750	2	121
Do	458	41	39	750	2	122
Do	458	42	39	750	2	123
1917						
June 12	27	1	40	179	2	414
Do	27	1	40	179	4	1763
June 15	30	1, T2	40	220	2	12
1920						
June 5	239	1	41	948	2	302
Do	239	2	41	948	2	302
1922						
Sept. 21	370	1	42	1004	2	4, 7, 211, 261
Do	370	1	42	1004	6	131
Do	370	1	42	1004	7	1–7
Do	370	2	42	1005	7	21–23, 25–42
Do	370	3	42	1006	7	24, 61, 62
Do	370	4	42	1007	5	606
Do	370	5	42	1007	5	607
Do	370	6	42	1007	5	773
Do	370	7	42	1007	5	667, 671
Do	370	8	42	1007	5	774
Do	370	9	42	1007	5	5
Do	370	12	42	1008	3	71
Do	370	13	42	1008	3	108
Do	370	13	42	1008	4	152
Do	370	15	42	1009	4	182
Do	370	16	42	1010	3	114
Do	370	16	42	1010	4	181, 183 2155
Do	370	17	42	1010	3	112
Sept. 21	370	18	42	1010	3	118
Do	370	19	42	1010	4	228
Do	370	20	42	1010	3	113, 120, 126, 127
Do	370	21	42	1011	3	119
Do	370	22	42	1011	3	128
1924						
June 5	261	2	43	389	2	121
1926						
Dec. 29	19	1	44	924	7	33–35
Do	19	2	44	924	7	42
Do	19	3	44	924	4	182
Do	19	4	44	926	4	181, 183
Do	19	5	44	926	3	119
Do	19	6	44	926	2	351
Do	19	7	44	927	4	131
Do	19	8	44	927	3	53
Do	19	9	44	927	3	54
Do	19	10	44	928	3	55
Do	19	11	44	928	3	56
Do	19	12	44	928	3	60
Do	19	13	44	928	3	61
Do	19	14	44	929	3	62
Do	19	15	44	929	3	63
Do	19	16	44	929	3	64
Do	19	17	44	930	3	652
1927						
Jan. 22	52	------	44	1023	3	54, 61, 64
1928						
Mar. 12	213	------	45	310	2	82
Apr. 11	354	1	45	422	7	61
1930						
Apr. 23	209	1	46	253	2	94, note
May 27	338	1	46	388	2	341
Do	338	2	46	388	2	341, 342
Do	338	3	46	388	2	341
1931						
Mar. 2	375	1	46	1471	2	91
Do	375	2	46	1471	2	92
Do	375	3	46	1472	2	93
Do	375	4	46	1472	2	94
Do	375	5	46	1474	2	95
Do	375	6	46	1474	2	96
Do	375	7	46	1476	2	97
Do	375	8	46	1476	2	98
Do	375	9	46	1477	2	99
Do	375	10	46	1477	2	100
Do	375	11	46	1477	2	101
Do	375	12	46	1478	2	102
Do	375	13	46	1479	2	103
Do	375	14	46	1479	2	104
Do	375	15	46	1479	2	105
Do	375	16	46	1480	2	106
Do	375	17	46	1480	2	107
1932						
June 30	314	204	47	404	2	92
July 2	391	------	47	568	5	608
July 5	416	------	47	571	5	461–463

6. Statutes at Large to Canal Zone Code—Continued

Statutes at Large					Canal Zone Code	
Date	Chapter	Section	Volume	Page	Title	Section
1932						
July 5	417	1	47	572	5	877
Do	418	1	47	573	5	871
Do	418	2	47	573	5	872
Do	418	3	47	573	5	873
Do	418	4	47	573	5	874, 875
Do	418	6	47	574	5	876
Do	418	7	47	574	5	876
Do	419	1	47	574	6	881
Do	419	2	47	574	6	882
Do	419	3	47	574	6	883
Do	419	4	47	574	6	884
Do	419	5	47	575	6	885
Do	419	6	47	575	6	886–888
Do	419	7	47	575	6	889
Do	419	8	47	575	6	890
Do	419	9	47	575	6	891
Do	419	10	47	575	6	892
Do	420	1	47	576	2	291
Do	420	2	47	576	2	292
Do	420	3	47	576	2	293
Do	421	1	47	576	2	361
Do	421	2	47	576	2	362
Do	422	1	47	576	2	41
Do	422	2	47	577	2	42, 43
Do	423	------	47	577	2	142
Do	424	1	47	577	2	331
Do	424	2	47	577	2	332
Do	424	3	47	577	2	333
Do	425	------	47	578	2	9
Do	426	1	47	578	7	43
Do	426	2	47	578	7	43
Do	427	1	47	578	2	201
Do	427	2	47	579	2	202
July 14	479	1	47	661	5	471, 473
Do	479	2	47	661	5	471, 474
Do	479	3	47	661	5	475
Do	479	4	47	662	5	476
Do	479	6	47	662	5	477
1933						
Feb. 16	88	1	47	811	2	151, 153
Do	88	2	47	811	2	152
Do	88	3	47	811	2	154
Do	88	4	47	811	2	155
Do	88	5	47	811	2	156
Do	88	6	47	811	2	157
Do	88	7	47	812	2	158
Do	88	8	47	812	2	159
Do	88	9	47	812	2	160
Do	89	1	47	812	2	271–273
Do	89	2	47	812	2	274
Do	89	3	47	812	2	275
Do	90	1	47	813	2	61
Do	90	2	47	813	2	66
Do	90	3	47	813	2	62, 63
Do	90	4	47	813	2	64
Do	90	5	47	814	2	65
Do	91	1	47	814	2	4, 7, 211, 261
Do	91	1	47	814	6	131
Do	91	1	47	814	7	1–7
Do	91	2	47	815	7	21–23, 25–42
Do	91	3	47	817	7	24, 61, 62
Do	92	------	47	818	2	371–373
Feb. 21	109	1	47	859	5	1
Do	109	4	47	859	5	24
Do	109	5	47	859	5	25
Do	109	6	47	859	5	26
Do	109	8	47	859	6	500, 501
Do	109	9	47	860	6	515

Statutes at Large					Canal Zone Code	
Date	Chapter	Section	Volume	Page	Title	Section
1933						
Feb. 21	109	10	47	860	6	484
Do	109	11	47	860	5	56
Do	109	12	47	860	5	58
Do	109	13	47	860	5	111
Do	109	14	47	860	5	42
Do	109	15	47	860	6	33
Do	109	16	47	861	6	41–43
Do	109	16a	47	861	5	91
Do	109	17	47	861	5	94
Do	109	17a	47	861	5	97
Do	109	18	47	861	5	95
Do	109	20	47	861	5	121
Do	109	21	47	861	5	122
Do	109	22	47	862	5	123
Do	109	23	47	862	5	126
Do	109	24	47	862	5	127
Do	109	25	47	862	5	132
Do	109	26	47	862	5	134
Do	109	27	47	862	5	135
Do	109	28	47	863	5	142
Do	109	29	47	863	5	148
Do	109	30	47	863	5	162
Do	109	31	47	863	5	164
Do	109	32	47	863	5	165
Do	109	33	47	863	5	177
Do	109	34	47	863	5	178
Do	109	35	47	864	5	176
Do	109	36	47	864	5	232
Do	109	37	47	864	5	211
Do	109	38	47	864	5	212
Do	109	39	47	864	5	212
Do	109	40	47	864	5	183
Do	109	41	47	864	5	182
Do	109	42	47	865	5	184
Do	109	43	47	865	5	206
Do	109	44	47	865	5	179
Do	109	45	47	865	5	205
Do	109	46	47	865	5	191
Do	109	47	47	865	5	192
Do	109	48	47	865	5	193
Do	109	49	47	865	5	221–223
Do	109	50	47	866	5	253
Do	109	50a	47	866	5	282
Do	109	50b	47	866	5	283
Do	109	50c	47	866	5	302
Do	109	50d	47	866	5	301
Do	109	50e	47	866	5	294, 303
Do	109	51	47	866	5	372
Do	109	51a	47	867	5	373
Do	109	51b	47	867	5	311
Do	109	51c	47	867	5	345
Do	109	52	47	867	5	332
Do	109	53	47	867	5	352
Do	109	54	47	867	5	354
Do	109	55	47	867	5	361, 362
Do	109	56	47	867	5	404
Do	109	56a	47	868	5	405
Do	109	56b	47	868	5	421
Do	109	56c	47	868	5	422
Do	109	56d	47	868	5	411
Do	109	57	47	868	5	414
Do	109	59	47	868	5	416
Do	109	60	47	868	5	484
Do	109	61	47	869	5	452
Do	109	62	47	869	5	453
Do	109	63	47	869	5	457
Do	109	65	47	869	5	704
Do	109	66	47	869	5	374
Do	109	67	47	869	5	742
Do	109	67a	47	869	5	523
Do	109	67b	47	870	5	524
Do	109	68	47	870	5	511

6. *Statutes at Large to Canal Zone Code*—Continued

Statutes at Large					Canal Zone Code		Statutes at Large					Canal Zone Code	
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page	Title	Section
1933							1933						
Feb. 21	109	69	47	870	5	512	Feb. 21	110	25	47	884	6	111
Do	109	70	47	870	5	513	Do	110	26	47	884	6	148, 149
Do	109	71	47	870	5	506	Do	110	27	47	884	6	150
Do	109	72	47	871	5	716	Do	110	28	47	884	6	171
Do	109	74	47	871	5	561	Do	110	29	47	884	6	175
Do	109	75	47	871	5	562	Do	110	30	47	884	6	182
Do	109	76	47	871	5	566	Do	110	31	47	885	6	183
Do	109	78	47	871	5	595	Do	110	32	47	885	6	187
Do	109	79	47	871	5	596	Do	110	33	47	885	6	195
Do	109	80	47	872	5	598	Do	110	34	47	885	6	655
Do	109	81	47	872	5	599	Do	110	35	47	885	6	173
Do	109	82	47	872	5	603	Do	110	36	47	885	6	176
Do	109	82a	47	872	5	622	Do	110	37	47	885	6	174
Do	109	83	47	872	5	623	Do	110	38	47	885	6	134, 135
Do	109	84	47	873	5	621	Do	110	38a	47	886	6	841, 843
Do	109	85	47	873	5	625	Do	110	39	47	886	6	842
Do	109	88	47	873	5	641	Do	110	40	47	886	6	90
Do	109	89	47	873	5	724	Do	110	41	47	886	6	89
Do	109	90	47	873	5	725	Do	110	42	47	886	6	93
Do	109	91	47	874	5	726	Do	110	43	47	886	6	96
Do	109	91a	47	874	5	727	Do	110	44	47	886	6	221, 222
Do	109	92	47	874	5	728	Do	110	45	47	886	6	226
Do	109	92a	47	875	5	730	Do	110	46	47	887	6	228
Do	109	92b	47	875	5	731	Do	110	47	47	887	6	241
Do	109	93	47	875	5	736	Do	110	48	47	887	6	243
Do	109	94	47	875	5	740	Do	110	49	47	887	6	256, 257
Do	109	94a	47	875	5	741	Do	110	50	47	887	6	280
Do	109	96	47	875	5	788	Do	110	51	47	888	6	294
Do	109	97	47	876	5	784	Do	110	52	47	888	6	301
Do	109	98	47	876	5	785	Do	110	53	47	888	6	302
Do	109	98a	47	876	5	781	Do	110	54	47	888	6	321
Do	109	99	47	876	5	662	Do	110	55	47	888	6	331–357
Do	109	100	47	876	5	669	Do	110	56	47	890	6	361
Do	109	101	47	876	5	670	Do	110	57	47	891	6	369
Do	109	101a	47	877	5	696	Do	110	58	47	891	6	385
Do	109	102	47	877	5	700	Do	110	59	47	891	6	389
Do	109	102a	47	877	5	697	Do	110	60	47	891	6	402
Do	109	102b	47	877	5	705	Do	110	61	47	891	6	405
Do	109	102c	47	877	5	757	Do	110	62	47	891	6	407
Do	109	103	47	878	5	824	Do	110	63	47	891	6	408
Do	109	105	47	878	5	802	Do	110	64	47	891	6	409
Do	109	106	47	878	5	838	Do	110	65	47	891	6	410
Do	109	109	47	878	5	833	Do	110	66	47	892	6	411
Do	109	110	47	879	5	807	Do	110	67	47	892	6	416
Do	109	111	47	879	5	834	Do	110	68	47	892	6	417
Do	109	112	47	879	5	853	Do	110	69	47	892	6	418
Do	109	113	47	879	5	854	Do	110	70	47	892	6	419
Do	109	114	47	879	5	5	Do	110	71	47	893	6	413
Do	109	115	47	879	5	2	Do	110	72	47	893	6	414
Do	110	1	47	880	6	15	Do	110	73	47	893	6	415
Do	110	2	47	880	6	172, 181	Do	110	74	47	893	6	403
Do	110	2a	47	880	6	16	Do	110	75	47	893	6	303, 401
Do	110	3	47	880	6	13	Do	110	76	47	893	6	431–433
Do	110	4	47	880	6	3	Do	110	77	47	893	6	434
Do	110	5	47	880	6	14	Do	110	78	47	894	6	443
Do	110	6	47	881	6	71	Do	110	79	47	894	6	441
Do	110	7	47	881	6	115	Do	110	80	47	894	6	442
Do	110	7a	47	881	6	72	Do	110	81	47	894	6	453–455
Do	110	8	47	881	6	73	Do	110	82	47	895	6	497
Do	110	9	47	881	6	74	Do	110	84	47	895	6	499
Do	110	11	47	881	6	76	Do	110	84a	47	895	6	511
Do	110	12	47	882	6	84	Do	110	85	47	895	6	512
Do	110	13	47	882	6	561–563	Do	110	86	47	895	6	513
Do	110	14	47	882	6	122	Do	110	87	47	895	6	545
Do	110	15	47	882	6	124, 125	Do	110	88	47	895	6	546
Do	110	16	47	882	6	126	Do	110	88a	47	896	6	564
Do	110	17	47	883	6	97	Do	110	89	47	896	6	572
Do	110	18	47	883	6	548	Do	110	90	47	896	6	573
Do	110	19	47	883	6	550	Do	110	91	47	896	6	581
Do	110	20	47	883	6	142	Do	110	92	47	897	6	582
Do	110	21	47	883	6	12	Do	110	93	47	897	6	592
Do	110	22	47	883	6	141	Do	110	94	47	897	6	601, 602
Do	110	23	47	883	6	132, 133	Do	110	95	47	897	6	604
Do	110	24	47	883	6	127	Do	110	96	47	897	6	625

6. Statutes at Large to Canal Zone Code—Continued

Statutes at Large					Canal Zone Code		Statutes at Large					Canal Zone Code	
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page	Title	Section
1933							1933						
Feb. 21	110	97	47	897	6	631	Feb. 21	110	110	47	900	6	686
Do	110	98	47	898	6	636	Do	110	111	47	900	6	791
Do	110	99	47	898	6	651–653	Do	110	112	47	900	6	795
Do	110	100	47	898	6	654	Do	110	113	47	900	6	832
Do	110	101	47	898	6	657	Do	110	114	47	900	6	825
Do	110	102	47	898	6	671	Do	110	115	47	900	6	740
Do	110	103	47	898	6	672	Do	110	116	47	900	6	724
Do	110	104	47	899	6	673	Do	110	117	47	901	6	774
Do	110	105	47	899	6	681	Do	110	118	47	901	6	904
Do	110	106	47	899	6	682	Do	110	120	47	901	6	2
Do	110	107	47	899	6	683, 684	Feb. 27	127	------	47	908	4	1–2183
Do	110	108	47	899	6	685	Do	128	------	47	1124	3	1–2865
Do	110	109	47	899	6	687	June 16	101	8¶b	48	305	2	95, note

7. EXECUTIVE ORDERS TO CANAL ZONE CODE

This table shows the location in the Canal Zone Code of sections having their original source in Executive orders.

Date	Section	Canal Zone Code		Date	Section	Canal Zone Code	
		Title	Section			Title	Section
1904				1909			
May 9	------	1	1	Oct. 2	1	5	443
				Do	2	5	810
1907				Do	3	5	444, 811
Mar. 13	------	5	342, 344, 441, 773	Nov. 23	------	2	224
Mar. 22	18	4	43	1910			
Do	29	4	65	July 28	1	4	121
Do	242	4	1161				
Do	243	4	1163	1911			
Do	247	4	1171	May 11	1	5	828
Do	393	4	151	June 28	------	2	304
Do	399	4	958	Sept. 8	1	5	843
Do	414	4	169	Sept. 14	------	5	827
Do	527	4	1009	Nov. 15	------	5	787
Do	530	4	1007				
Do	531	4	1005	1912			
Do	670	3	532	Apr. 17	1	5	844
Do	671	3	533	Do	2	5	845
Do	794	3	191	Do	3	5	846
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				July 3	1	4	967
1908							
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Aug. 14	------	5	773	Jan. 9	1	4	1001
				Do	2	4	982
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		Title	Section
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Do.	15	4	1004
Do.	16	4	1006
Do.	17	4	984
1924			
Mar. 5	1	4	982
Do.	2	4	984, 1004, 1005, 1006
1925			
July 28	Rule 1	4	153
Do.	Rule 2	4	26
Do.	Rule 7	4	442
Do.	Rule 18	4	45
Do.	Rule 20	4	965, 966
1928			
Jan. 3	2	4	393
Do.	3	4	394
Do.	4	4	395
Do.	5	4	396
Do.	7	4	397
June 23	-----	4	987
Nov. 3	3	4	1751
Do.	4	4	1752
Do.	5	4	1753
Do.	6	4	1754
Do.	7	4	1755
Do.	9	4	1756
Do.	10	4	1758
Do.	11	4	1759
Do.	12	4	1760
Do.	13	4	1761
Do.	14	4	1762
Do.	15	4	1762

8. ACTS AND ORDINANCES ISTHMIAN CANAL COMMISSION TO CANAL ZONE CODE

This table shows the location in the Canal Zone Code of sections having their original source in acts or ordinances of the former Isthmian Canal Commission.

No.	Date	Section	Canal Zone Code	
			Title	Section
	1904			
3	Aug. 22	2	5	472
3	do.	3	5	471, 473
3	do.	4	5	471, 474
3	do.	5	5	475
3	do.	6	5	476
3	do.	10	5	477
4	do.	-----	5	461–463
12	Sept. 2	1	6	901
12	do.	2	6	902
14	Sept. 3	-----	5	1–877
15	do.	-----	6	1–905
	1907			
-----	Oct. 28 (27)	10	5	836
	1910			
-----	Apr. 23	-----	5	609
	1912			
-----	July 18	1	5	830
-----	do.	2	5	829

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